

REPORT TO THE  
**SAN FRANCISCO PARKING AND TRAFFIC COMMISSION**

MANAGEMENT AUDIT  
OF  
**CITY-OWNED GARAGES**

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BOARD OF SUPERVISORS  
BUDGET ANALYST

NOVEMBER, 1993



CITY AND COUNTY



OF SAN FRANCISCO

## BOARD OF SUPERVISORS

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November 22, 1993

John L. Molinari, President  
and Members of the Parking and Traffic Commission  
25 Van Ness, Suite 410  
San Francisco, California 94102

Dear President Molinari and Members of the Parking and Traffic Commission:

Transmitted herewith is the Budget Analyst's management audit of the City-owned parking garages. This audit was conducted at the request of the Parking and Traffic Commission. The scope of this management audit included an examination of 17 City-owned parking facilities. The City contracts directly with the operators of 11 of these parking garages, known as direct operation parking facilities, leases five of the garages to non-profit corporations, and is in the process of converting one garage from a non-profit lease to a direct operation parking facility.

A summary of the management audit findings contained in this report is as follows:

The City oversees eleven direct operation parking facilities through competitive bidding of operator contracts and compliance monitoring. As leases expire, the City is converting all of these facilities from leases to management contracts, which improves revenue control and prevents unnecessary legal expenses in case of operator default. The contract operators are compensated with a percentage of gross revenues, unless legal issues or uncertain revenues (for a new garage) make it necessary to compensate them with a flat fee. Compensation with a percentage of gross revenues, in lieu of a flat fee, should maximize the financial return to the City.

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The risk of basing compensation on gross revenues is that the operator can increase profits by cutting expenditures, thus reducing services. The City can mitigate this risk by including performance specifications in all contracts, developing inspection checklists, and conducting twice-monthly inspections. The Off-street Parking Division of the Department of Parking and Traffic (DPT) has only one professional staff person to coordinate facility capital projects, monitor staffed facilities and metered lots, and report to the Parking and Traffic Commission. One additional full time equivalent (FTE) professional position is needed in the Division to perform the enhanced monitoring and other functions related to rate analysis and marketing which we have recommended.

The primary tool for oversight of the non-profit garages -- the garage budget -- is ineffective. Authority is vested in the Controller's Office, which approves budgets with minimal analysis and inadequate monitoring, and approves disbursements without comparing actual expenditure rates to the budgets. Even if the budget approval process was improved, it would produce less efficient results than would competitive bidding by the non-profits of fixed rate operator contracts. The non-profit corporations could design performance specifications to ensure a satisfactory standard of service.

The non-profits should use the most recent fixed rate operator facility management contracts as a model for their own operator contracts. Such contracts should be based on a percentage of gross revenues to cover operating expenses and profit when legally and financially feasible. Where a bid based on a percentage of gross revenues is not feasible, contracts should be bid based on a fixed level of compensation that covers operating expenses and profit, in contrast to their existing contracts which provide for a flat management fee and reimbursement for operating expenses. Further, the non-profits should design performance specifications and inspection checklists to ensure a satisfactory standard of service.

All of the non-profit parking corporations, except Portsmouth Plaza Parking Corporation, have adhered to their leases with the City, including remitting the required percent of net revenues in a timely manner. However, between 1987 and 1993, Portsmouth Plaza Parking Corporation has been between one month to two years delinquent in remitting its lease payments due to the Recreation and Park Department. The last payment made by the corporation for Fiscal Year 1991-92, was remitted to the City in November of 1993, just prior to the release of this report. Currently the Portsmouth Plaza Parking Corporation owes the Recreation and Park Department \$538,832 in back lease payments from the past six fiscal years. The Portsmouth Plaza Parking Corporation has consistently not adhered to the lease requirements and has not repaid a \$500,000 construction loan made by the Recreation and Park Department. The City's lease with the Portsmouth Plaza Parking Corporation should be terminated as expeditiously as possible.

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In FY 1991-92, two attorneys provided the six non-profit parking corporations with 2,970 hours of legal and corporate management services at a cost of \$399,239. The payment to attorneys for management services is excessive and should be discontinued. If the two attorneys provided strictly legal services and a corporate manager and administrative assistant provided the management services, the non-profit parking corporations could reduce their annual expenses by nearly 30 percent or \$111,142 annually. A comparison of the hourly rate of a corporate manager hired by two of the non-profit corporations, to the hourly rates of the two attorneys, reveals that the hourly rates of the attorneys are approximately 229 percent to 295 percent higher than the hourly rate of the corporate manager.

The attorney for the Civic Plaza, Downtown, Portsmouth Plaza, and Uptown Parking Corporations frequently multiple billed his non-profit parking corporation clients for the same service. Such multiple billings resulted in an hourly rate of \$550 for providing such activities as attending public meetings, reviewing meeting agendas and making telephone calls. The total estimated cost of these multiple billings for FY 1991-92 is \$19,923. These overcharges of \$19,923, which are essentially a cost to the City, should be immediately paid back to the applicable non-profit parking corporations by the subject attorney.

The Controller's office received all of the invoices and should have been aware of the multiple billing practices at the time the bills were submitted for approval. This practice of multiple billing has existed for several years. The Controller discontinued approving payment for such multiple billings in June, 1993.

The City has leases with each of the five non-profits that expire between the years 2007 and 2015. At that time the City will have the opportunity to decide whether to extend the non-profits' control of the garages, or to disband the corporations and take responsibility directly. A comparison of the non-profit corporate expenses to the estimated costs of providing similar services with City staff indicates that the City could provide the services at approximately \$95,027 less than the non-profits. However, if the non-profits implement the recommendations included in Sections 2 and 4 of this report, they could provide those services for approximately \$16,115 less than the City. In addition, there are unquantifiable benefits associated with the non-profit parking corporations that represent a real value to the city, including the voluntary time and business expertise of the non-profit Boards of Directors. Since there appears to be no clear cost advantage to dissolving the non-profit corporations if the recommendations contained in this report to achieve additional economies are implemented, continuation of the non-profit corporations after their leases expire would be a policy matter that would take into consideration the value of services provided by the non-profit corporations.

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The non-profit corporation Boards of Directors do not include representatives outside of the surrounding business community. Including such representation would ensure the City's fiscal interests are reflected in Board decisions.

There are several indicators that City-owned garages could increase or decrease parking rates to maximize revenues, while continuing to address the goal of encouraging short-term parkers, as follows:

- Of the 15 City-owned garages, four charge less than \$1.00 for the first hour, while the surrounding parking meters are \$1.00 to \$1.50 per hour.
- Portsmouth Square and Fifth and Mission garages receive approximately \$2,442 and \$1,086 respectively more revenue per transient space than per monthly space.
- Based on the high use of transient parking spaces, hourly rates could be raised at Portsmouth Square and Sutter-Stockton garages.

However, each garage should analyze the impact on demand when making parking rate changes. Such an analysis would require changing parking rates and evaluating the change in transient parkers on an experimental basis. Because the City's rate changing process is time-consuming, it does not permit the garages to revise hourly rates quickly enough to measure the impact rate changes have on demand for transient and monthly parking.

The Department of Parking and Traffic has not developed a comprehensive marketing plan for all of the City's parking facilities. Nor has the Department required each of its parking operators and non-profit Boards of Directors to develop a marketing plan for each of the City's parking facilities. By review and approval of each facility's marketing plan, the Department of Parking and Traffic could insure that the City's marketing efforts are properly coordinated and that maximum revenues are generated within the framework of other City policies. Possible components of a coordinated marketing plan include an informational flyer and a downtown restaurant validation program. The advertising program now being undertaken by the Ellis-OFarrell Garage should also be evaluated for application in other City-owned garages.

Based on these findings, the Budget Analyst has made the following recommendations:

In Section 1 we recommend that the Parking and Traffic Commission:

- 1.1 Complete the conversion from leases to management contracts with garage operators. Where legally possible and financially feasible,

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compensation of the operator should be based on a percentage of gross revenues rather than on the basis of a flat fee.

- 1.2 Include detailed performance specifications, with penalty clauses, in all management contracts with operators, covering garage personnel, security, maintenance, and signage.
- 1.3 Add one full time equivalent (FTE) professional position in the Off-Street Parking Division to develop performance specifications, assist in bid preparation and evaluation, develop inspection checklists, carry out twice-monthly inspections, as well as other tasks outlined in Section 6 related to analysis of parking rates and in Section 7 related to marketing.
- 1.4 Direct the DPT Off-Street Parking Division to monitor direct operation garage compliance with performance specifications through twice-monthly checklist inspections, and submit six month reports to the Parking and Traffic Commission on operator performance and revenues.
- 1.5 Revise the Moscone Center and Polk-Bush management contracts to require annual revenue audits.

In Section 2 we recommend that all of the Non-profit Parking Corporations:

- 2.1 Convert the existing operator contracts, which provide for a flat management fee and reimbursement of operating expenses, to fixed rate operator contracts, under which the operator agrees to a level of compensation based on a percentage of gross revenues to cover operating costs and profit, when legally and financially feasible. Where a bid based on a percentage of gross revenues is not feasible, contracts should be bid based on a fixed level of compensation that covers operating expenses and profit. In either type of fixed rate contract, the operator is responsible for paying operating expenses without receiving any additional reimbursement of such expenses by the City. Submit non-profit budgets for formal approval by the Parking and Traffic Commission until the recommended fixed rate contracts are in effect.
- 2.2 Competitively bid fixed rate operator contracts for City-owned garages on a regular basis, at least every five years. The bid processes need not have to adhere strictly to acceptance of the lowest qualified bid, but should clearly indicate a point system for rating bidders on other criteria, to be approved by the Parking and Traffic Commission.
- 2.3 Work with the City to amend their leases, eliminating the budget approval process and reimbursement procedures other than for strictly non-profit corporate expenses such as legal and corporate manager expenses which

should be approved by the Parking and Traffic Commission. Replace the budgetary approval of operating expenses with a competitive selection process. The amended leases should give the Parking and Traffic Commission the authority to approve contract specifications, as well as the bidding process. The Commission and the Board of Supervisors should have authority to approve the final bid award for each non-profit garage operating contract. The amended leases should retain the authority of the Controller to audit garage revenues.

- 2.4 Include detailed performance specifications and reporting requirements with penalty clauses in all management contracts with operators.
- 2.5 Direct their staff to monitor compliance with performance specifications, and report to the Parking and Traffic Commission every six months on operator performance and revenues.

In Section 3 we recommend that the Parking and Traffic Commission:

- 3.1 Terminate its lease with the Portsmouth Plaza Parking Corporation as expeditiously as possible.
- 3.2 Assume oversight of the Portsmouth Square Garage operations.
- 3.3 Competitively bid the garage operator agreement.
- 3.4 Request the City Attorney to review the circumstances surrounding Portsmouth Plaza Parking Corporation's unpaid loan and late payments to determine whether action was taken in violation of City rules and procedures.

If the Parking and Traffic Commission does not decide to terminate its lease with the Portsmouth Plaza Parking Corporation, the Commission should:

- 3.5 Request the City Attorney, the Controller's Office, the Recreation and Park Department and the Portsmouth Plaza Parking Corporation to meet and develop a mutually acceptable and financially feasible amortization schedule for the Portsmouth Plaza Parking Corporation to repay the \$538,832 in back payments and the \$500,000 construction loan. The Commission should request that such a schedule be developed within a specified period of time and that the City and the Corporation enter into a written agreement regarding that schedule.

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In Section 4 we recommend that all of the Non-profit Parking Corporations:

- 4.1 Jointly hire a corporate manager and an administrative assistant to perform the management functions now being performed by an attorney.
- 4.2 Establish a joint search committee to advertise the administrative assistant position, interview candidates and hire the administrative assistant.
- 4.3 Enter into written agreements with their attorneys that restrict the attorneys' services to legal services only. Such agreements should specifically define the legal services to be provided and how those services should be presented in the attorneys' invoices.
- 4.4 Enter into agreements with their attorneys that prohibit the attorneys from multiple billings for the same services.

We also recommend in Section 4 that the Attorney for Civic Plaza, Downtown, Portsmouth Plaza, and Uptown Parking Corporations immediately:

- 4.5 Pay back the Civic Plaza, Downtown, Portsmouth Plaza, and Uptown Parking Corporations for the overcharges resulting from multiple billings.

In Section 5 we recommend that the Parking and Traffic Commission:

- 5.1 Request that the non-profit parking corporations implement the recommendations included in Sections 2 and 4 of this report.
- 5.2 If the non-profit parking corporations do not implement the recommendations included in Sections 2 and 4 of this report, seek to dissolve them as soon as legally possible.
- 5.3 Provide the non-profit parking corporation boards with a list of potential candidates from which to select a board director to represent the City's interests.

In Section 5 we also recommend that the Non-Profit Parking Corporation Boards:

- 5.4 Include one director on each board representing the City's interests.
- 5.5 Implement the recommendations included in Sections 2 and 4 of this report.

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In Section 6 we recommend that the Parking and Traffic Commission request the Mayor and the Board of Supervisors to:

- 6.1 Permit the DPT to adjust parking garage rates for 90-day experimental trial periods as needed and measure the effects on garage revenue and usage. Require the DPT to seek Board of Supervisors approval of any permanent rate changes at the end of each 90-day trial period.
- 6.2 If the Mayor and the Board of Supervisors permit the Parking and Traffic Commission to adjust rates over a 90-day trial period, they should require the DPT to provide them with a detailed report analyzing the impact to the City's revenues from the trial rate changes when they seek Board of Supervisors approval of permanent rate changes.

In Section 6 we also recommend that the Parking and Traffic Commission:

- 6.3 Consider increasing hourly rates on an experimental basis at Portsmouth Square, Fifth and Mission, Sutter-Stockton, Vallejo Street, Mission-Bartlett and Japan Center Garages.
- 6.4 Reduce the number of monthly parking spaces at Portsmouth Square Garage and consider reducing the number of monthly parking spaces at Japan Center and Fifth and Mission Garages, in favor of transient parking spaces on an experimental basis.
- 6.5 Direct the Off-Street Parking Division to provide technical and analytical support to the City-owned garages in setting rates.

In Section 7 we recommend that the Parking and Traffic Commission:

- 7.1 Direct staff to prepare a coordinated marketing plan for all of its parking facilities, including parking meters and parking lots which are controlled with parking meters instead of being staffed.
- 7.2 Enforce requirements that each garage operator and non-profit corporation board of directors prepare a marketing plan for each parking facility. Parking and Traffic Department staff should make recommendations to the Commission as to any changes in these plans prior to approval.

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In Section 7 we recommend that the Department of Parking and Traffic:

- 7.3 Develop a one-page flyer to advertise the locations and price advantage of the City-owned garages. Individual garage management should disseminate the flyers to their patrons.
- 7.4 In consultation with downtown garage operators, prepare a survey to assess the potential for an evening restaurant validation program in the downtown area. Garage operators should take responsibility for disseminating and collecting the surveys, for analysis by DPT staff.
- 7.5 Carefully evaluate the results of the Ellis-O'Farrell coupon marketing program. If necessary, the DPT should request periodic follow-up reports from the Ellis-O'Farrell Parking Corporation to measure long-term effects of transient parking at the garage.

Written Response of the Executive Director of the Department of Parking and Traffic

The Executive Director of the DPT has responded to the Budget Analyst's management audit of the City-owned garages. His response is attached to our report on page 75.

The Executive Director of the DPT states that he intends to recommend to the Parking and Traffic Commission that each of the actions recommended by the audit be adopted as soon as possible. The Executive Director notes that some recommendations can be adopted for implementation by the Commission, while the Commission will need to request Board of Supervisors action to authorize implementation of other recommendations.

Written Response of the Attorney for the Uptown, Downtown, Portsmouth Plaza and Civic Plaza Parking Corporations

The attorney for Uptown, Downtown, Portsmouth Plaza and Civic Plaza Parking corporations has responded to the Budget Analyst's management audit of the City-owned garages. His response is attached to our report beginning on page 76.

In our report we recommend that the non-profit parking corporation enter into agreements with their attorneys which would prohibit multiple billings for the same services and specifically define the legal services to be provided and how these services should be presented in the attorneys' invoices.

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The attorney for the Uptown, Downtown, Portsmouth Plaza and Civic Plaza Parking Corporations states in his response that he will comply with these recommendations.

The attorney for Uptown, Downtown, Portsmouth Plaza and Civic Plaza Parking Corporations, however, disagreed with our statement that he profited unjustifiably from the multiple billings as follows:

"As for your comments on multiple billings, I do not agree with your finding that I unjustifiably profited, but I do agree that I have done nothing illegal or unethical in my billing."

In his response he further stated that:

"all of my bills were submitted pursuant to established requisition procedures and were paid only upon approval by the City Controller. Further, my bills were subject to the audit by the Audits Division of the Controller's Office in 1988 and 1989, and were not even mentioned in the Audit Report. Finally, my billing procedures were openly discussed in the meetings of the Parking Authority and the Controller's Office."

In our report we not only state that this attorney did profit unjustifiably from multiple billing practices but we recommend that he pay back the Uptown, Downtown, Portsmouth Plaza and Civic Plaza Parking Corporations for overcharges as a result of the multiple billings. Based on our analysis of billings for fiscal year 1991-92, we estimated the added cost to the City of these multiple billings to be \$19,923.

At the conclusion of his response, the attorney for the Uptown, Downtown, Portsmouth Plaza and Civic Plaza Parking Corporations stated that:

"Just as I have volunteered to the auditors in the Controller's office, I would like the opportunity to meet with you and your staff, together with my files, time sheets, personal diaries and daily work sheets, and the bills, and review each entry, in order to adjust the bills accordingly. However, as an alternative, in the interests of cooperation and the conservation of time and effort, although I do not agree with your analysis of my billing, I am willing and I hereby offer to make payment or give credit for services performed in the amount specified in your recommendations, or \$19,923.00, to the corporations I represent."

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Portsmouth Plaza Parking Corporation's Response

The President of Portsmouth Plaza Parking Corporation has responded to the Budget Analyst's management audit of the City-owned garages. This response is attached to our report beginning on page 79.

The Portsmouth Plaza Parking Corporation previously claimed that the \$500,000 unpaid loan made by the Recreation and Park Department (RPD) is related to its delinquent lease payments to RPD. The Portsmouth Plaza Parking Corporation's response contends that the reason for the delinquent payments to the RPD is because of an unwritten agreement between the RPD and the Corporation to permit the Corporation to use garage income, which would otherwise have been remitted to the RPD, to make payments to the construction contractor that built the elevator and to make other improvements to the Portsmouth Plaza facility.

The RPD denies having made such an agreement. Our conclusion therefore remains that the \$500,000 unpaid loan, which the Corporation believes should be forgiven, is not related to the Corporation's delinquent lease payments to the City.

We understand that the circumstances surrounding the new elevator installation and the other improvements to the Portsmouth Plaza Parking Corporation were complicated and involved various City departments. For this reason, we recommend that the City Attorney review those circumstances and determine whether action was taken in violation of City rules and procedures.

However, there are two factual errors in Portsmouth Plaza Parking Corporation's explanation of its late payments to the Recreation and Park Department. These errors are:

The Corporation's response states that it has been in arrears in making its payments to the Recreation and Park Department since January of 1991 when the RPD presumably permitted the Corporation to use the 85 percent of net revenues to pay the construction contractor. However, the Corporation has been delinquent in making its payments to the Recreation and Park Department since June of 1988, two and a half years prior to January of 1991.

The Corporation's response indicates that it used \$768,318 of the 85 percent of net revenues to pay the construction contractor. Meanwhile, the total amount of its lease payment arrearage, also from the 85 percent of net revenues due to the City, was as much as \$1,667,793, or \$899,475 more than the \$768,318 used to pay the contractor.

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In conclusion, the Portsmouth Plaza Parking Corporation has been severely delinquent in its payments to the Recreation and Park Department since June of 1988. This delinquency is in violation of a 1983 agreement between the Corporation and the City. While there may be extenuating circumstances surrounding some of those delinquent payments, until recently, the Corporation has not made a good faith effort to make more timely payments. For this reason, we recommend that the City terminate its lease with the Corporation as expeditiously as possible. We further recommend that if the City decides not to terminate its lease with the Corporation, the City and the Corporation should enter into a written agreement regarding a mutually acceptable and financially feasible amortization schedule for repayment of the loan and the past due lease payments.

Written Response of the Attorney for the Ellis-O'Farrell and Western Addition Parking Corporations

The attorney for the Ellis-O'Farrell and Western Addition Parking Corporations has responded to the Budget Analyst's management audit of the City-owned garages. His response is attached to our report beginning on page 84.

In his response the attorney stated that:

"I do not understand the report statement of potential savings in legal services based on the hourly rate of a City Attorney. While this comparison may be appropriate to the analysis under Section 5, it has no relevance in this section. The statement suggests the City Attorney's Office is a viable alternative for rendering legal services to these private nonprofit corporations. The statement is based on factual error."

We compared the cost of an equivalent FTE City Attorney to the cost of the same number of hours of the two attorneys. We made this comparison to provide a context for evaluating the cost to retain two attorneys on an hourly basis compared to an equivalent salaried position in the City. This comparison is entirely appropriate. We do not make a statement of any potential savings nor do we recommend that the City Attorney provide legal services to the non-profit parking corporations. Our savings estimates are based on the provision of non-legal services by management personnel rather than by more costly attorneys.

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In his response the attorney further stated that:

"This report is critical of the use of attorneys in performing administrative functions and concludes that such services can be performed less expensively. The report notes that the melded legal rate while low for legal services is nevertheless substantially higher than the salary of an administrator. Projections of potential savings are offered based on the salary of an administrator after factoring out "pure" legal time. However, the report makes no similar adjustment for the cost of "pure" legal time based on competitive legal rates in the community."

The attorney for the Ellis-O'Farrell and Western Addition Parking Corporations has not provided any written documentation that competitive legal rates for comparable legal services are higher than his \$125 hourly rate or the attorney for the other non-profit parking corporations' \$125 to \$150 hourly rates. Therefore, since these are the actual rates being charged by the present two attorneys, we used their rates to project the cost of providing legal services.

In his response he further stated that:

"Nor does the report consider that some administrative services performed at the melded rate actually may have resulted in substantial savings to the corporation. This is a demonstrated fact in the case of the Ellis-O'Farrell corporation in the monitoring of its expansion construction contract compared to Fifth and Mission where the monitoring is being performed by a full service construction management firm at a significantly higher cost."

The attorney for the Ellis-O'Farrell and Western Addition Parking Corporations has not provided any written documentation substantiating this claim. As discussed in Section 5 of our report, it is very difficult to compare construction management costs. Those costs are dependent on the construction contract amount and the specifications of that contract. We do not understand how the attorney for the Ellis-O'Farrell and Western Addition Parking Corporations can assert that his construction oversight services were less expensive than those of the Fifth and Mission Garage without a detailed analysis of the magnitude of the two projects and the scope of the construction management provided at each facility.

The attorney also stated in his response that:

"The report suggests the need of a City representative on the nonprofit boards. The reason given is that the boards, representing the interests of the area surrounding the garage, may not weigh the City's interest in making expenditure decisions. But, no mention is made of the total control over expenditures reserved by the City under the garage leases.

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The leases from the City to the nonprofit corporations are very specific in giving the City unilateral control over expenditures. The City approval/control provisions were incorporated in the leases precisely to assure that City-wide interests are protected in fiscal matters and decisions involving the subject garages."

While the City approves the annual budgets of the non-profit parking corporations, the non-profits develop the budgets and have more knowledge and information regarding the garages' expenditures. We concluded in Section 2 of this report that the City's oversight and approval of the non-profit parking corporations' budgets is inadequate. We believe that the City's interests would be better served by including a representative on the non-profit boards. In fact, at the request of the DPT, the Portsmouth Plaza Parking Corporation has appointed a director from outside the surrounding business community to serve on its Board and represent the City's interests. All of the other non-profit corporations have also agreed to appoint a director from outside the surrounding business community.

In his response the attorney finally stated that:

"Under "Goals" in developing and operating improvement projects the report states that because the garages are not directly managed by the City, the corporations are not required to follow City procedures. In fact, nonprofit garage corporations are private corporations not governed by the City charter and ordinances and the requirements thereunder pertaining to City departments and agencies."

We did not say the non-profits are governed by the City Charter. Nor do we imply that the increased flexibility afforded by the non-profits' private status is a problem. We do not understand why the attorney for the Ellis-O'Farrell and Western Addition Parking Corporations included this comment.

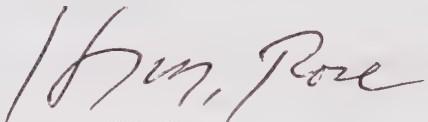
### **Acknowledgments**

Management audits must rely heavily on key personnel within the organizations under review to provide essential information and identify opportunities for improvement. We especially wish to acknowledge the assistance of Kevin Hagerty, Kathryn Hile, Tim Johnson and Executive Director John Newlin of the Department of Parking and Traffic. Staff of the garage operators, staff and board members of the non-profit corporations, the non-profits' bond counsel, and staff of the Department of

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Real Estate, the Recreation and Park Department, the City Attorney's Office and the Controller's Office all assisted significantly in our efforts to complete this management audit.

Respectfully submitted,



Harvey M. Rose  
Budget Analyst

cc: Frederick E. Jordan, Vice President  
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Robert Speer, President, Western Addition Parking Corporation  
Alfred Cinelli, President Civic Plaza Parking Corporation



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## INTRODUCTION

At the request of the San Francisco Parking and Traffic Commission, the Budget Analyst has conducted a management audit of City-owned parking garages.

### Audit Scope

The scope of this management audit included an examination of seventeen City-owned parking facilities.<sup>1</sup> Table 1 provides a description of the audited facilities. Their locations are shown on the map on page 3.

The City contracts directly with the operators of eleven of these facilities, leases five of them to non-profit corporations, and is in the process of converting another from a non-profit lease to a direct contract with an operator. The purpose of the audit was to review the management and operations of the facilities in order to identify opportunities for increased efficiency and effectiveness in the administration of the City-owned parking facilities.

This audit included the following procedures:

- Interviews with key personnel within the Department of Parking and Traffic (DPT), the Controller's Office, the Department of Real Estate (DRE), the Recreation and Park Department (RPD), and the City Attorney's Office.
- Interviews with directors and staff of the non-profit parking corporations, representatives of the parking operator companies, and employees of the parking facilities;
- Analysis of previous audit reports and special studies conducted by external financial auditors, the Controller's Internal Audits Division and various management consultants.
- A limited review of control procedures for collecting and reporting parking revenues, as well as the procedures for obtaining reimbursement for operating expenses. The gross revenues and internal controls of each of these facilities are audited periodically by independent certified public accountants and are included in the regular work program of the Controller's Internal Audits Division.
- A detailed comparison of staffing plans with sample payroll weeks and annual financial statements for each non-profit garage. On the basis of our sample, we found that garage employee payroll costs were adequately documented in staffing plans, and were consistent with the employees' union contract.

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<sup>1</sup>Metered parking facilities, including metered parking lots operated by DPT, are not included in the scope of this management audit. The Vallejo/Churchill surface lot, which was acquired in 1992 for construction of a new garage, is also excluded as it continues to be leased to the previous operator on a month-to-month basis.

**Table 1**  
**City-Owned Parking Facilities**

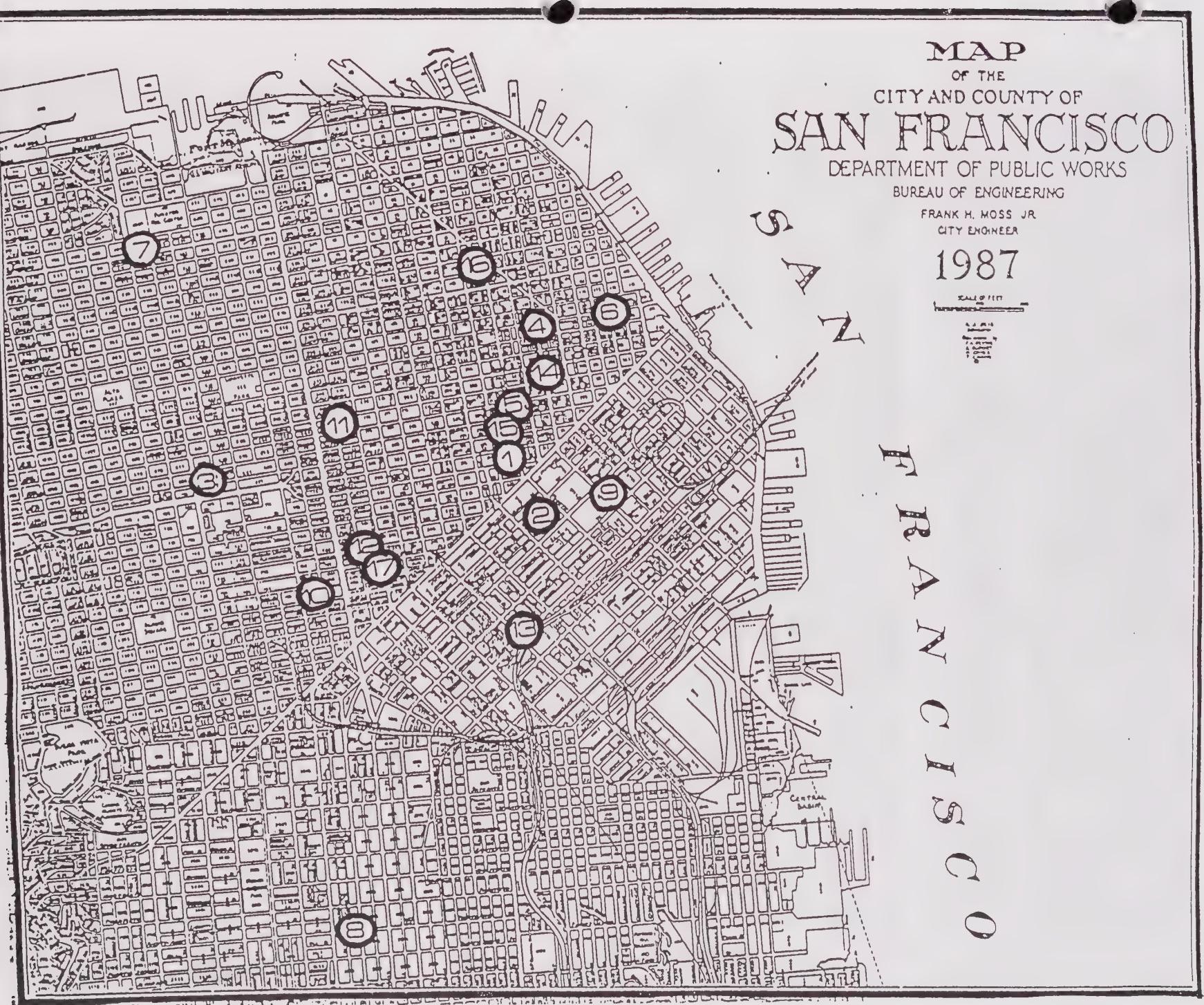
<b>NON-PROFIT PARKING FACILITIES</b>	Year	FY1992-93	FY1992-93	Self-Park/ Attendant Park
	Opened	No. Spaces	Transient Cars	Monthly Cars*
1. <i>Ellis-O'Farrell Garage</i> 123 O'Farrell St. @ Powell St.	1964	1,263	681,322	42 Semi- Attendant Park
2. <i>Fifth &amp; Mission Garage</i> 833 Mission St. @ 4th St.	1957	1,774	1,132,081	580 Self Park
3. <i>Japan Center Garage</i> 1660 Geary Blvd. @ Buchanan	1965	875	790,499	227 Self-Park
4. <i>Portsmouth Square Garage</i> 733 Kearny St. @ Clay	1960	504	717,289	100 Self Park
5. <i>Sutter-Stockton Garage</i> 444 Stockton St. @ Sutter	1959	1,865	1,687,939	23 Self Park
<b>DIRECT OPERATION PARKING FACILITIES</b>				
6. <i>Golden Gateway Garage</i> 250 Clay St. @ Battery	1965	1,112	233,552	325 Self Park
7. <i>Lombard Street Garage</i> 2055 Lombard St. @ Fillmore	1987	205	32,400	90 Self Park
8. <i>Mission-Bartlett Garage</i> 90 Bartlett St. @ 21st St.	1991 **	350	121,996	160 Self Park
9. <i>Moscone Center Garage</i> 255 Third St. @ Howard St.	1984	732	131,994	278 Self Park
10. <i>Performing Arts Garage</i> 370 Grove St. @ Franklin St.	1983	612	175,426	60 Self Park
11. <i>Polk-Bush Garage</i> 1230 Polk St. @ Bush St.	1993	132	N.A.***	74 Self Park
12. <i>Polk-McAllister Surface Lot</i> Corner of Polk St. @ McAllister St.	1986	51	54,656	0 Attendant Park
13. <i>Seventh &amp; Harrison Surface Lot</i> Corner of Seventh St. @ Harrison St.	1957	192	109,055	0 Self Park
14. <i>St. Mary's Square Garage</i> 433 Kearny St. @ Pine St.	1954	828	166,730	450 Attendant Park M-F 4am-6pm
15. <i>Union Square Garage</i> 333 Post St. @ Geary Blvd.	1941	1,008	791,515	72 Self Park
16. <i>Vallejo Street Garage</i> 766 Vallejo St. @ Stockton St.	1969	163	294,436	16 Self Park
<b>TRANSITIONING FROM NON-PROFIT TO DIRECT OPERATION PARKING FACILITY</b>				
17. <i>Civic Center Garage</i> 355 McAllister St. @ Polk St.	1958	840	335,591	156 Self Park
<b>TOTAL FOR CITY FACILITIES</b>		<b>12,506</b>	<b>7,456,481</b>	<b>2,653</b>

\*Figures for monthly cars reflect the number of vehicles paying a monthly parking rate.

\*\*Previously a metered parking lot.

\*\*\*Polk-Bush Garage opened on April 30, 1993, so annual transient figures are not available.

Locations of City-Owned Parking Facilities



Note: Numbers correspond with Parking Facilities in Table 1, Page 2.

- A detailed analysis of available records to determine the organizational structure of each parking garage. This analysis included identification and review of relevant leases, operator agreements, budgets, audited financial statements, contracts and other documents. We reviewed these items to determine how each facility is managed, the role of City departments in monitoring their performance and any legal issues that would affect recommendations for change.
- An analysis of non-profit parking corporation legal charges to determine the nature of work being performed by legal counsel and the appropriateness of billing practices.
- An evaluation of rate schedules for the City-owned parking garages, including a comparison with parking rates in privately-owned competitive parking facilities and nearby metered parking.
- An evaluation of garage usage including revenue results of transient and monthly parking space allocations.
- An examination of existing and potential marketing efforts for the garages.
- A review of relevant documents and discussions with City and non-profit staff regarding over-spending in FY 1993-94 at the Sutter-Stockton Garage. (Discussed in Section 2, page 29.)
- An examination of lines of authority and responsibility for the operation of the City parking facilities in order to identify organizational structures that may be unclear, duplicative or ineffective, resulting in inefficient operations.
- A formulation of recommendations to improve the management, organizational structure and operations of the parking garages.

## **History and Background of the City-Owned Parking Garages**

The City became involved in setting parking policy in the 1940s. Public parking facilities were provided to relieve street traffic congestion that impeded access to public and private property. In particular, the City's goal was to support commercial districts by facilitating shopping and other business activity. In the 1940s, San Francisco was already starting to lose retail market share to surrounding Bay Area communities. Civic and business leaders assigned much of the blame for this problem to the increasing difficulty of driving and parking in downtown San Francisco.

The Union Square Garage, developed in 1941 to serve downtown retail trade, was the first City-owned garage. The City of San Francisco began to take an active role in the provision of parking with voter approval of the 1947 Off-Street Parking Bond Fund. General Obligation bonds totaling \$5 million were issued to finance acquisition and construction of garages and parking lots. Two years later, the Parking Law of 1949 of the State of California resulted in the City's establishment of the San Francisco Parking Authority.

During the 1950s and 1960s, the City purchased or developed another nine garages. Proceeds of the 1947 Bond Fund were generally used to acquire the land, except in cases where a proposed garage was located on land already owned by the City. In order to avoid placing an undue burden on the City's General Obligation bond limitation and further increasing City financial obligations, non-profit corporations were formed to issue revenue bonds to finance the construction of eight parking garages.<sup>2</sup> Because the non-profit corporation bonds are tax exempt, their interest rates were reasonably comparable to rates for tax exempt government bonds. Thus, the cost to finance the construction of the garages was almost as cost effective as if the City had issued bonds directly. However, the revenue bonds did not limit the credit of or become direct obligations of the City.

Each non-profit corporation issued shares of stock, held in trust for the City, and leased the garage from the City for the period of time that was required to pay off the debt. The non-profit corporations that financed the Union Square and Golden Gateway Garages were dissolved when they retired their revenue bonds, and Civic Plaza Parking Corporation is in the process of being dissolved.

During the 1970s, little new garage development occurred, as the Parking Authority instead pursued acquisition of property. The City accumulated up to \$18 million in the Off-Street Parking Fund, from meter and garage revenues during the decade.

In the 1980s and early 1990s, the City has acquired or built five new garages and a parking lot.<sup>3</sup> Most of the costs of development for these facilities were paid for from Off-Street Parking Fund reserves except for the Moscone Center Garage, which was financed with Parking Authority revenue bonds. The City did not establish non-profit corporations to finance these new facilities.

In this report, parking facilities that do not have a non-profit intermediary between the City and the operator are referred to as "direct operation" facilities.

Most of the City's parking facility operations were originally managed by the Parking Authority and non-profit corporation boards. Budgetary and expenditure control for the non-profit garages was the responsibility of the Controller's Office. The Recreation and Park Department (RPD) controlled three garages (Union Square, Portsmouth Square and Civic Center Garages) that were built on land held by that department.

In 1988, the voters amended the Charter to create the Department of Parking and Traffic (DPT). Starting in 1990, members of the Parking and Traffic Commission were designated as the voting members of the San Francisco Parking Authority as

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<sup>2</sup>The original non-profit garages were Union Square, Fifth and Mission, Civic Center Plaza, Sutter-Stockton, Portsmouth Square, Golden Gateway, Ellis-O'Farrell, and Japan Center. The St. Mary's Square Garage was financed by the developer. The Vallejo Street Garage was financed by the San Francisco Police Department and the Off-Street Parking Fund. The Seventh and Harrison parking lot was also acquired in this period.

<sup>3</sup>The garages that opened during the 1980s and early 1990s include the Performing Arts, Moscone Center, Lombard, Mission-Bartlett and Polk-Bush Garages. The Polk-McAllister lot also opened during this time.

well. In order to consolidate responsibility for managing off-street parking facilities under the new DPT, the DPT was given oversight authority for the garages that had been operated as Recreation and Park Department (RPD) concessions. The Controller continues to maintain budgetary and expenditure control over the non-profit garages.

The organizational structure of the City's parking facilities is complex, and differs for each facility depending upon how construction was financed, which City department held title to the property on which the facility was built, and when the facility was built.

The non-profit garages function under an organizational structure that involves the following individuals and agencies:

The non-profit corporation board of directors contracts with the operating company, legal counsel and (in two cases) a corporate manager. The board is required to approve the annual budget proposal. An officer of the board must approve all operating expenditure reimbursement requests. Board members typically do informal monitoring of garage maintenance. They also make recommendations to the Parking and Traffic Commission regarding garage hours and rates. Two of the five non-profit corporations (the Uptown and Portsmouth Plaza Parking Corporations) pay the City 85 percent of the garage's net income as rent. Leases of Ellis-O'Farrell and Fifth and Mission garages have recently been amended to require payments to the City of 85 percent of net income (total revenues less operating expenses and debt service). The Western Addition Parking Corporation continues to retain all revenues after operating expenses and debt service.

The non-profit legal counsel and corporate manager<sup>4</sup> supervise the operating company's on-site manager, handle relations with the operating company and City agencies, and keep the board of directors informed of all matters pertaining to the garage. The legal counsel is paid an hourly rate by the board of directors, while the corporate manager works for two of the non-profit garages, which each pay half his salary.

The operating company hires an on-site manager and other staff, administers the payrolls, prepares a proposed annual budget, and handles occasional management problems at the request of the non-profit corporate staff or board of directors. For these services, the non-profit corporation pays the operating company a flat fee. The company is reimbursed for all operating expenses of the facility.

The Controller's Office approves annual non-profit garage budgets and bi-monthly operating cost reimbursement requests. The Controller's Office also has the authority to approve mid-year changes to the approved budgets.

The Department of Real Estate (DRE) assists in lease negotiations with both the non-profit corporations and the retail tenants of the non-profit garages.

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<sup>4</sup>Two of the non-profit corporations, the Uptown (Sutter-Stockton Garage) and Downtown (Fifth & Mission Garage) jointly employ a corporate manager.

The Department of Parking and Traffic (DPT) Off-Street Parking Division, with one professional staff, monitors the performance of the garages, coordinates capital projects planning, and prepares reports for the Department of Parking and Traffic on matters pertaining to the garages.

The Parking and Traffic Commission reviews annual non-profit garage budget proposals, and makes budget recommendations to the Controller. The Commission also makes recommendations to the Board of Supervisors regarding individual garage rates, hours of operation, and capital improvement proposals.

The Recreation and Park Department (RPD) receives rent payments from the Portsmouth Square and Civic Center Garages, which are located on RPD property. Such payments are recognized as RPD revenue in the City's budget and Annual Appropriation Ordinance.

The Board of Supervisors and the Mayor approve rates, hours of operation and major capital improvement proposals for the garages in lease amendments.

The organizational structure for the direct operation garages involves fewer individuals and agencies, for two reasons. First, there is no non-profit corporate intermediary between the City and the operating company. Instead, the DPT contracts directly with the operating companies. Second, operators of the direct operation garages provide garage operations at a fixed rate instead of on a fee plus cost reimbursement basis. The operating company is responsible for paying operating expenses, and their total contractual compensation is presumed to cover expenses and profit. For this reason, the direct operation garages do not submit budgets or reimbursement requests to the Controller for approval.

The organizational structure for direct operation garages is described below:

The operating company hires an on-site manager and other staff, monitors facility expenditures, processes payrolls, and handles relations with the DPT. All direct operating facilities operate under fixed rate (no operating cost reimbursement) leases or management contracts. Six of the direct operation garages have leases with the City, and are compensated with a percentage of gross revenues. Four of the direct operation garages have management contracts with the City. Two of these base compensation on a percentage of gross revenues, while two receive a flat fee, with a percentage of gross revenues incentive after a threshold revenue level is reached. Another direct operation garage is under transition from a lease to a management contract, under which compensation will be based on a percentage of gross revenues. (See Table 1.1, page 14)

The DRE receives and deposits monthly rent payments from the percentage rent direct operation garages, and daily revenue deposits from the management contract direct operation garages. The DRE also administers bids for direct operation garage contracts, as required by the DPT and the City's Administrative Code.

The Controller's Office pays the contract operators, after receipt of a direct payment voucher from the DRE.

The DPT Off-Street Parking Division monitors parking facility operator performance, coordinates capital projects planning, monitors facility revenues, and advises the Parking and Traffic Commission on matters pertaining to the direct operation facilities. The DPT Off-Street Parking Fund receives a portion of direct operation garage payments to the City to pay for future off-street parking development needs as determined by the Mayor and the Board of Supervisors.

The Parking and Traffic Commission makes recommendations to the Board of Supervisors regarding bid documents and operator contracts (leases or management contracts), as well as any significant amendments to operator contracts, individual parking facility rates and hours, and future off-street parking development needs.

The RPD receives the rent payments from the Union Square Garage, which was built on property of the department, and 58 percent of the rent payments from the St. Mary's Square Garage. These payments are recorded as RPD budgeted department revenue.

The Board of Supervisors and the Mayor approve direct operation parking facility rates, hours of operation, and capital improvement proposals, as they do for the non-profit garages.

As of October 1993, the City owns fifteen parking garages and two staffed parking lots which provide a total of approximately 12,500 parking spaces. Financial data for FY 1992-93 is provided in Tables 2 and 3 on pages 11 and 12 respectively.

In FY 1992-1993, the City's General Fund received a total of approximately \$5.8 million in revenues from operation of these facilities. The Off-Street Parking Fund received approximately \$2.3 million, and the RPD received approximately \$5.2 million in revenues from parking facility operations. In addition, the City's 25 percent parking tax produced \$23.9 million for the General Fund, and \$6 million for a Senior Citizen's Fund, from all public and private parking facilities. Parking meters yielded another \$9.1 million for the Off-Street Parking Fund. (See Table 6.1, page 60.)

Today the City seeks to balance multiple goals in setting parking policy. These goals include:

- Relieving serious congestion that threatens public safety.
- Ensuring that lack of affordable parking does not hurt the City's economy.
- Producing revenue from operation of parking facilities to finance future off-street parking needs and to contribute to the General Fund.

- Encouraging use of public transit into and through San Francisco, in accordance with the City's "Transit First policy."<sup>5</sup>

The City's goals for the individual parking facilities, as expressed by DPT staff, include providing clean, safe, affordable and accessible parking to shoppers and other patrons; and maximizing revenues to the City given the rates and hours set by the Parking and Traffic Commission, approved by resolution of the Board of Supervisors and signed by the Mayor.

### **Major Accomplishments**

The main objective of a management audit is to identify opportunities for improvement. Nevertheless, the accomplishments of the City-owned parking garage system should not be overlooked. Recent accomplishments include:

- Development of new parking facilities, and expansion and renovation of existing facilities in the past decade has increased the supply of off-street parking in San Francisco downtown and neighborhood commercial districts.
- Despite the lack of DPT authority over non-profit garage budgets, the Parking and Traffic Commission has begun to make detailed recommendations to the Controller's Office regarding the proposed budgets.
- The DPT has obtained an agreement in principle from the non-profit parking corporations' boards of directors to develop a competitive bid process for operator contracts.
- The City has benefited from considerable volunteer time and expertise on the part of non-profit garage boards of directors.
- At the request of the DPT the Portsmouth Plaza Parking Corporation has appointed a Director from outside the surrounding business community to serve on its Board and represent the City's interests. The other non-profit corporations have also agreed to appoint a director from outside the surrounding business community.
- The Department is working with the Human Rights Commission to increase the participation of minority and women-owned businesses in both the operation of City-owned garages and the capital improvements to the facilities.
- The Department is upgrading revenue control equipment in the garages to improve internal controls.
- The Department effectively coordinates the operations of the garages with other divisions. As an example, during the holiday season the Enforcement Division

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<sup>5</sup>The Transportation Element of the City's Master Plan includes a Transit First Policy which was adopted in 1973 by the Planning Commission and the Board of Supervisors. The goal of the Transit First Policy is to limit the number of commuters coming into and/or traveling around San Francisco by car.

provides manual traffic control and the Traffic Engineering Division adopts temporary regulations to ease the flow of traffic around City garages.

## **Definition of Terms**

For the purposes of this audit, terms are defined as follows:

Direct Operation Parking Facility is a parking facility for which the City contracts directly with an operating company to manage the facility.

Nonprofit Garage is a City-owned garage that is leased to a non-profit corporation, which issued tax exempt bonds to finance the garage's development.

Reimbursed Operator Contract is an operator contract that pays a flat management fee to the operator, and provides reimbursement for operating expenses.

Fixed Rate Operator Contract is a contract under which the operator agrees to a level of compensation that the operator believes will cover operating expenses and profit. The operator is responsible for paying operating expenses without reimbursement.

Lease form of operator contract is one under which the operator agrees to pay a rental fee to the City in exchange for the right to operate the garage.

Management Contract form of operator contract is one under which the City agrees to pay the operator a management fee (which may be fixed rate or reimbursed cost) in exchange for facility management services.

Transient Parkers are parking facility patrons who pay based on the amount of time they park in the facility, rather than paying a monthly parking fee for unlimited parking. The majority of parking facility patrons are transient parkers.

Monthly Parkers are parking facility patrons who pay a monthly parking fee for unlimited parking in the facility throughout the month. Monthly parkers are typically issued a magnetized card that provides access to the parking facility.

DPT is the Department of Parking and Traffic.

DRE is the Department of Real Estate.

RPD is the Recreation and Park Department.

## **Acknowledgments**

Management audits must rely heavily on key personnel within the organizations under review to provide essential information and identify opportunities for improvement. We especially wish to acknowledge the assistance of Kevin Hagerty, Kathryn Hile, Tim Johnson and Executive Director John Newlin of the Department of Parking and Traffic. Staff of the garage operators, staff and board members of the non-profit corporations, the non-profits' bond counsel, and staff of the Department of Real Estate, the Recreation and Park Department, the City Attorney's Office and the Controller's Office all assisted significantly in our efforts to complete this management audit.

Table 2

**Financial Data for Non-Profit Garages**  
**Fiscal Year 1992-93**

<u>Address of Facility/ Name of Corporation/Name of Operator</u>	<u>Revenues</u>	<u>Operating Expenses</u>	<u>Debt Service</u>	<u>Net Revenues</u>	<u>Formula for Non-Tax Payments to City</u>	<u>Actual Non-Tax Paymts to City</u>
Ellis-O'Farrell Garage 123 O'Farrell St. @ Powell St. <i>Ellis-O'Farrell Parking Corporation</i> <i>The Parking Place</i>	\$1,757,562	\$1,663,166	\$197,273	(\$102,877)	85% of Net Income per negotiated agreement.	0
Fifth & Mission Garage* 833 Mission St. @ 4th St. <i>Downtown Parking Corporation</i> <i>City Park</i>	\$2,349,226	\$1,645,113	\$106,458	\$597,655	85% of Net Income per negotiated agreement.	\$425,056
Japan Center Garage 1660 Geary Blvd. @ Buchanan <i>Western Addition Parking Corp.</i> <i>The Parking Place</i>	\$1,346,784	\$1,034,931	\$71,632	\$240,221	100% of Receipts pledged to bond interest and redemption.	0
Portsmouth Square Garage** 733 Kearny St. @ Clay <i>Portsmouth Plaza Parking Corporation</i> <i>City Park</i>	\$1,535,030	\$1,024,103	\$0	\$510,927	85% of Net Income per negotiated agreement.	\$538,832
Sutter-Stockton Garage*** 444 Stockton St. @ Sutter <i>Uptown Parking Corporation</i> <i>AMPCO</i>	\$4,027,020	\$1,850,054	\$451,616	\$1,725,350	85% of Net Income per negotiated agreement.	\$1,828,848

\*Parking tax of \$764,635 and gross receipts tax of \$785,052 excluded from gross revenues.

\*\*Parking tax of \$510,690 and gross receipts tax of \$515,830 excluded from gross revenues.

\*\*\*Parking tax of \$1,116,242 and gross receipts tax of \$1,325,222 excluded from gross revenues.

**Table 3**  
**Financial Data for Direct Operation Garages**

<u>Address/ Name of Operator</u>	<u>Formula for Non-Tax Payments to City</u>	<u>1992-93 Payments to City (Excluding Parking Tax)</u>
Golden Gateway Garage 250 Clay St. @ Battery <i>Five Star Parking</i>	84.18% of Gross Revenues \$125,000 Monthly Minimum	\$2,075,384
Lombard Street Garage 2055 Lombard St. @ Fillmore <i>Allright Parking</i>	40.1% of Gross Revenues \$5,000 Monthly Minimum	\$72,796
Mission-Bartlett Garage 90 Bartlett St. @ 21st St. <i>S&amp;F Parking/MEDA</i>	18% of Gross Revenues \$4,000 Monthly Minimum	\$33,196
Moscone Center Garage 255 Third St. @ Howard St. <i>Five Star Parking</i>	\$17,836 Monthly, Annual CPI Adj. Plus 5% of Gross Over \$1,100,000	\$698,098
Performing Arts Garage 370 Grove St. @ Franklin St. <i>Five Star Parking</i>	72.18% of Gross Revenues \$20,000 Monthly Minimum	\$698,372
Polk-Bush Garage 1230 Polk St. @ Bush St. <i>City Parking</i>	\$13,079 Monthly, Annual CPI Adj. Plus 5% of Gross Over \$300,000	New Garage Opened Apr 93
Polk-McAllister Surface Lot Corner of Polk St. @ McAllister St. <i>City Parking</i>	69.09% of Gross Revenues \$2,500 Monthly Minimum	\$113,873
Seventh & Harrison Surface Lot Corner of Seventh St. @ Harrison St. <i>Allright Parking</i>	60.7% of Gross Revenues \$6,000 Monthly Minimum	\$157,857
St. Mary's Square Garage 433 Kearny St. @ Pine St. <i>Five Star Parking</i>	70.82% of Gross Revenues Management Fee 29.18%	\$1,114,237
Union Square Garage 333 Post St. @ Geary Blvd. <i>City Park</i>	79.746% of Gross Revenues \$175,000 Monthly Minimum	\$2,888,972
Vallejo Street Garage 766 Vallejo St. @ Stockton St. <i>City Parking</i>	67.3% of Gross Revenues Management Fee 32.7%	\$220,812
<b>TRANSITIONING FROM NON-PROFIT TO DIRECT OPERATION PARKING FACILITY</b>		
Civic Center Garage 355 McAllister St. @ Polk St. <i>AMPCO</i>	\$833.33 Monthly Management Fee Plus Actual Costs of Operation	\$748,338

## **SECTION 1: CONTRACT ISSUES: DIRECT OPERATION PARKING FACILITIES**

- THE CITY OVERSEES ELEVEN DIRECT OPERATION PARKING FACILITIES THROUGH COMPETITIVE BIDDING OF OPERATOR CONTRACTS AND COMPLIANCE MONITORING. AS LEASES EXPIRE, THE CITY IS CONVERTING ALL OF THESE FACILITIES FROM LEASES TO MANAGEMENT CONTRACTS, WHICH IMPROVES REVENUE CONTROL AND PREVENTS UNNECESSARY LEGAL EXPENSES IN CASE OF OPERATOR DEFAULT.
- THE CONTRACT OPERATORS ARE COMPENSATED WITH A PERCENTAGE OF GROSS REVENUES, UNLESS LEGAL ISSUES OR UNCERTAIN REVENUES (FOR A NEW GARAGE) MAKE IT NECESSARY TO COMPENSATE THEM WITH A FLAT FEE. COMPENSATION WITH A PERCENTAGE OF GROSS REVENUES, IN LIEU OF A FLAT FEE, SHOULD BE USED WHEREVER FEASIBLE, BECAUSE THIS APPROACH SHOULD MAXIMIZE THE FINANCIAL RETURN TO THE CITY.
- THE RISK OF BASING COMPENSATION ON GROSS REVENUES IS THAT THE OPERATOR CAN INCREASE PROFITS BY CUTTING EXPENDITURES, THUS REDUCING SERVICES. THE CITY CAN MITIGATE THIS RISK BY INCLUDING PERFORMANCE SPECIFICATIONS IN ALL CONTRACTS, DEVELOPING INSPECTION CHECKLISTS, AND CONDUCTING TWICE-MONTHLY INSPECTIONS.
- THE OFF-STREET PARKING DIVISION OF THE DPT HAS ONLY ONE PROFESSIONAL STAFF PERSON TO COORDINATE FACILITY CAPITAL PROJECTS, MONITOR STAFFED FACILITIES AND METERED LOTS, AND REPORT TO THE PARKING AND TRAFFIC COMMISSION. ONE ADDITIONAL FULL TIME EQUIVALENT (FTE) PROFESSIONAL POSITION IS NEEDED IN THE DIVISION TO CARRY OUT THE NEW FUNCTIONS LISTED ABOVE.

## Form of City/Operator Contract

Over time, the City has experimented with a variety of methods for obtaining private management of parking facilities, and the nine direct operation garages and two staffed parking lots reflect the mix of approaches that has been tried.<sup>1</sup> In all eleven of the facilities, the contract operator must cover operating expenses without reimbursement. Until recently, all direct operation facilities were leased to a private operator. Today, leases govern six of the direct operation garages. The operating companies that lease these garages make a monthly rental payment to the City based on a percentage of gross monthly revenues, subject to a minimum rent amount.

Four of the remaining garages are run according to a management contract with the operator. The Performing Arts Garage is now under transition to the management contract method. The operating companies deposit all daily revenues in a City revenue account. The operators are paid by the City at the end of each month. Some management contracts base the operator payment on a percentage of gross monthly revenues (the reverse of the rental payment for the leased garages). Others provide the operator with a flat monthly fee, potentially supplemented by a percentage of gross excess revenues, if revenues reach a target level. The chart below shows the current status of direct operation facilities.

**Table 1.1**

### Direct Operation Parking Facilities

Garage	Operator	Term of Contract	Type of Payment
<b>Lease Contracts</b>			
Golden Gateway	Five Star Parking	Oct. 1991 to Sept. 1996	% of Gross Retained
Lombard Street	Allright Parking	Feb. 1991 to Jan. 1996	" " "
Mission-Bartlett	S&F Parking MEDA	Sept. 1991 to Sept. 1996	" " "
Polk-McAllister	City Parking	Dec. 1991 to Nov. 1994	" " "
7th & Harrison	Allright Parking	Oct. 1991 to Oct. 1996	" " "
Union Square	City Park	Aug. 1991 to July 1996	" " "
<b>Management Contracts</b>			
Moscone Center	Five Star Parking	Oct. 1989 to Sept. 1994	Mngmt Fee w/% Gross Incentive
Polk-Bush	City Parking Co.	April 1993 to April 1998	" " "
St. Mary's Square	Five Star Parking	May 1993 to April 1998	Mngmt. Fee based on % of Gross
Vallejo Street	City Parking Co.	Sept. 1993 to Aug. 1998	" " "
<b>Transitioning to Management Contract</b>			
Performing Arts	Five Star Parking	Will be 5 year contract, to be bid in late 1993.	After new bid will be mngmt. fee based on % of gross

<sup>1</sup>Two of the eleven direct operation facilities, the Union Square Garage and the Golden Gateway Garage, were originally non-profit garages, but their non-profit corporations were dissolved when the garages retired their debt. Another non-profit, the Civic Plaza Parking Corporation, is being dissolved in 1993, upon retirement of the garage debt. The Civic Center Garage will be the twelfth direct operation facility.

## **Management Contract vs. Lease**

As leases expire, the City is converting all of the direct operation garages from leases to management contracts. The City Attorney's office advises that the main disadvantage of a lease is that it confers a right of possession on the operating company. If an operator refuses to turn over a garage after notification that the City has found them in default of some provision of the lease, the City would have to file a court action to regain possession of the garage. With a management contract, the operator could be removed after a 30-day notice period, without the need for expensive legal action. The City Attorney's office reports that an operator has never been forcibly removed, but the potential legal costs alone warrant a transition to management contracts.

Another advantage of the management contract is improved revenue control. Under a management contract, daily revenues are deposited in a City revenue account, under the supervision of the Department of Real Estate (DRE). Under a lease, operators deposit daily revenues in their own accounts, and pay the City at the end of the month. During FY 1992-93, the Metropolitan Parking Company, which managed the St. Mary's Square and Vallejo Street Garages, failed to make two consecutive monthly rent payments for each garage before City staff became aware that the company was insolvent. Although the company did not protest the termination of the Vallejo Street Garage lease or the non-renewal of the St. Mary's Square Garage lease, the City has been in litigation since the end of 1992 to recover a minimum of \$170,000 in unpaid rent. In a situation like that of Metropolitan Parking, the insolvent company would have been unable to use City revenues to meet its private obligations under a management contract, because the daily revenues would have been under City control.

DRE staff advise, however, that the transition to daily deposits in City accounts has resulted in up to 10 hours per month of work for their office. The City accounts require DRE staff to assemble receipts of active deposits, prepare a summary page, and take the receipts to the Treasurer's office several times each week. Management contracts could be written to allow operators to make daily deposits into their own accounts (as with leased garages), and submit a monthly check to the City, but the revenue control benefits would be lost. If more garages shift to management contracts, DRE may need to augment its clerical staff with a part-time position to handle the increased workload, or reduce another activity. Alternatively, the DRE could investigate the feasibility of using a lock box service at a commercial bank to process deposits and deliver receipts.

## **Bidding of Operator Agreements**

The DRE has competitively bid the garage leases and management contracts on a regular basis since their inception. In general, the agreements have a 5-year term. Bid documents are developed by the DRE, in conjunction with the Department of Parking and Traffic (DPT) and the City Attorney's Office. The Parking and Traffic Commission recommends and the Board of Supervisors approve bid awards.

The DRE issues a pre-qualification questionnaire to potential bidders. Bidders must show that they have operated a garage facility for at least one year, with at least half the number of spaces and gross revenue as the City facility they seek to bid on. In addition, bidders must establish that they have the financial ability to perform their obligations under the contract. Those applicants who are certified as qualified bidders by the DRE must submit a bid one week after they pre-qualify. The DRE selects the lowest qualified bid, and DPT staff prepare a briefing paper and resolution for approval by the Parking and Traffic Commission and the Board of Supervisors.

When changes in rates, hours or required levels of service significantly alter garage expenses or gross revenues, the leases and management agreements can be amended. For example, the City can negotiate a revised percentage of gross compensation for operators when rate increases are approved by the Board of Supervisors during the term of a lease. In this way, the operator does not receive an unfair windfall profit from the rate increase. Alternatively, if the Commission determines, for example, that more security is needed at a garage than was anticipated in the bid, it may negotiate an increase in compensation for the operator based on the additional cost of the security. Such changes must be approved by the Parking and Traffic Commission and the Board of Supervisors.

The leases and the oldest management contract (Moscone Center, 1989) provide only general guidelines regarding level of service. The management contracts signed in 1993, however, include a detailed garage maintenance checklist and schedule. Maintenance is an aspect of garage management that particularly lends itself to this kind of specification. Other key aspects of garage operations could, however, also be specified in sufficient detail to provide City contract monitors with more effective ways to maintain standards of service in the garages. For example, guidelines for number of entry and exit lanes open at peak and non-peak hours could be incorporated into the contracts, with garage usage thresholds that would require opening more lanes. Other items that could be specified include security, staff training, and facility signage. The advice of a consultant might be needed to add such provisions to the bid requests, but better specifications would mitigate the incentive for operators to cut service in order to increase profits.

The development of performance specifications and penalty clauses should appropriately be carried out by the DPT, rather than the DRE, because the DPT has specialized expertise in and knowledge of parking garage service priorities. DRE staff state that the DRE is accustomed to working closely with departments, and could accommodate more DPT involvement in the preparation of bid documents. For the DPT, however, this would represent a substantial new responsibility in the first years of its implementation, for which staff is not now available.

### **Off-Street Parking Division Staffing**

The Off-Street Parking Division of the DPT consists of one professional staff (the Director of Off-Street Parking), a half-time accounting position, and a clerical position. The Director reports that he spends approximately 60 percent of his time coordinating new parking facility development projects such as the North Beach

garage project, the renovation of St. Mary's Square Garage, and the proposed San Francisco General Hospital garage project. The other 40 percent of the Director's time is currently divided between monitoring the 17 staffed parking facilities and 24 metered off-street lots, and preparation of briefing papers and resolutions for the Parking and Traffic Commission. The Parking and Traffic Commission should consider adding a new professional position in the Off-Street Parking Division, or perhaps re-assigning an existing DPT position new duties, to develop more detailed performance specifications, in addition to performing other functions which will be discussed later in this and other sections.

### Form of Compensation

Management contracts can compensate the operator primarily through a flat monthly fee, or through a percentage of monthly gross revenues. In some cases, such as that of Moscone Center Garage, Federal tax law precludes the operator from obtaining a majority of its compensation in a manner that is tied to revenues.<sup>2</sup> Thus the Moscone Center Garage management contract provides the operator with a flat fee, supplemented by a small percentage of excess gross revenues after total annual gross revenues exceed \$1.1 million. (This annual revenue target has never been reached.) For most of the direct operation garages, however, the City can legally opt for either method of compensation.

The advantage of the percentage of gross revenues approach over the method of a flat fee payment is that it provides the operator with an incentive to maximize gross revenues, which also maximizes the financial return to the City. The garage operators, however, do not control some of the key variables that contribute to revenues, most importantly rates and hours of operation. These factors are determined by the Parking and Traffic Commission and approved by Board of Supervisors resolution. The main way in which operators can effect gross revenues is through marketing the facility to the public, and DPT staff report that they observe more aggressive marketing among the garages that are compensated wholly on the basis of percentage of gross revenues. There may also be a connection between compensation tied to gross revenues and more rigorous adherence to garage performance standards, because garage patronage may be affected by the level of security, cleanliness, speed and quality of service at the garage.

The main disadvantage of basing operator compensation solely on a percentage of gross revenues, as opposed to a flat fee, is that if revenues fail to meet expectations, the operator must cut expenses or take less profit. Cutting expenses could improve efficiency, but could also result in a reduction in basic facility services. One way to mitigate reductions in service on the part of an operator, as noted above, is to include detailed performance specifications with penalty clauses for non-performance in the contract.

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<sup>2</sup>Development of the Moscone Center Garage was financed with revenue bonds. Because repayment of the bonds comes from garage revenues, Federal law prohibits agreements that provide the operator with a majority of compensation based on revenues. Most of the non-profit garages were also financed with revenue bonds.

The DRE has tried to use a combination of the two compensation methods at the Moscone Center and Polk-Bush Garages, by paying the operator a flat fee and a percentage of gross revenues in excess of a target annual revenue level. To date, this combined approach has failed to provide the desired incentive, because the revenue thresholds have not been reached. A complex, case-by-case analysis would be required to determine a realistic threshold revenue level and percentage level that could potentially yield enough revenue to the operator to provide an incentive for special revenue-maximizing efforts such as marketing.

The City has, in practice, utilized a flat management fee approach for new garages that are not expected to raise sufficient gross revenue in their initial years to provide a reasonable return to the garage operator, as well as for very small garages. This is the case for the Polk-Bush Garage. For mature garages that generate sufficient revenue to compensate an operator, the percentage of gross method of compensation is, on balance, preferable, as long as adequate performance standards are required and enforced.

### Revenue Monitoring

Managers of all the direct operation garages submit a monthly statement of gross revenues, less Parking Tax payments, to the Controller, the DRE and the DPT. The DRE prepares a direct payment voucher for the management agreement garages, which reflects the percent of gross or fixed fee contained in the contract. The Controller then pays the management fee.

Most of the leases and management contracts with the direct operation garages require the operator to conduct an annual audit of their revenues.<sup>3</sup> In addition, the Controller's Internal Audit staff conduct revenue audits of the garages on a three-year cycle.

### Performance Monitoring

The DPT, as the department responsible for administration of parking programs, has the task of ensuring that the garages are operated according to the provisions of their lease or management contract. In general, this involves inspecting the garages on a regular basis to see that they are maintained and operated at a reasonable standard of service as interpreted by DPT staff. Inspections are informal. Staff do not complete a checklist of inspection items, even for the garages that have maintenance schedules in their management agreements.

The DPT Director of Off-Street Parking reports that he is able to complete on average one on-site inspection of each of the facilities per month. If a facility is undergoing renovation, or has been the subject of complaints, the Director may make more frequent visits. On the other hand, facilities that are not the subject of complaints may be inspected only once in a two or three month period.

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<sup>3</sup>The Moscone Center and Polk-Bush Garage management contracts do not require the operator to conduct an annual audit of revenues. The contracts should be revised to include the audit requirement.

The Director believes that more frequent inspection is warranted, but other responsibilities preclude his devoting more time to this activity. As mentioned earlier, 60 percent of the Director's time is now devoted to coordinating off-street parking capital projects planning, and another 20 percent is typically spent preparing materials for the Parking and Traffic Commission, leaving only approximately 20 percent of his time for monitoring existing facilities. The addition of a new, or reassignment of an existing, full time equivalent (FTE) professional position to the Off-Street Parking staff would make more frequent inspections possible. In addition, this position could be responsible for developing an inspection checklist for each garage based on the performance specifications that would be included in the management agreements, as proposed earlier in this section.

The value of regular, thorough inspections was illustrated by the recent history of St. Mary's Square Garage. The former operator of that garage, Metropolitan Parking, neglected routine maintenance as the company became insolvent. A twice-monthly checklist inspection would have alerted the City to the maintenance problem, and possibly resulted in an earlier termination of the lease.

## **CONCLUSION**

The City oversees eleven direct operation parking facilities through competitive bidding of operator contracts and contract compliance monitoring. Leases govern six of the direct operation facilities, while the other five have management contracts. As leases expire the City is converting all of the direct operation garages to management contracts, to avoid legal costs in the event of default, and to achieve better revenue control. Operator contracts for the direct operation garages have been competitively bid on a regular basis.

The DRE has begun to include performance specifications for maintenance in recent management contracts, but needs to develop more thorough specifications for staffing levels and staff training, security and signage. The operators are compensated with a percentage of gross revenues, unless legal restrictions or uncertain revenues (for a new garage) make it necessary to compensate them primarily with a flat fee. The advantage of the percentage of gross revenues approach is that it provides the operator with an incentive to maximize gross revenues, which also maximizes the financial return to the City. The danger of basing compensation on gross revenues is that the operator can increase profits by cutting expenditures and services. The City can mitigate this risk by enforcing detailed performance specifications. However, contract monitoring now consists of informal inspections, which the DPT is able to carry out on average only once a month. An inspection checklist based on performance specifications and a more frequent inspection schedule are both needed to ensure operator compliance with the management contracts.

The Off-Street Parking Division is understaffed to perform these functions. With only one professional staff person, the Director of Off-Street Parking, to coordinate off-street parking capital development projects, monitor the 17 staffed facilities and 24 metered lots, and prepares reports for the Parking and Traffic Commission, it is difficult for the Director to visit each facility on a periodic basis.

One additional FTE professional is needed to enable the Off-Street Parking Division to perform the enhanced monitoring functions we recommend.

## **RECOMMENDATIONS**

The Parking and Traffic Commission should:

- 1.1 Complete the conversion from leases to management contracts with garage operators. Where legally possible and financially feasible, compensation of the operator should be based on a percentage of gross revenues rather than on the basis of a flat fee.
- 1.2 Include detailed performance specifications, with penalty clauses, in all management contracts with operators, covering garage personnel, security, maintenance, and signage.
- 1.3 Add one full time equivalent (FTE) professional position in the Off-Street Parking Division to develop performance specifications, assist in bid preparation and evaluation, develop inspection checklists, carry out twice-monthly inspections, as well as other tasks outlined in Section 6 related to analysis of parking rates and in Section 7 related to marketing.<sup>4</sup>
- 1.4 Direct the DPT Off-Street Parking Division to monitor direct operation garage compliance with performance specifications through twice-monthly checklist inspections, and submit six month reports to the Parking and Traffic Commission on operator performance and revenues.
- 1.5 Revise the Moscone Center and Polk-Bush management contracts to require annual revenue audits.

## **COSTS/BENEFITS**

The estimated cost of adding a professional position to assist the Director of the Off-Street Parking Division of the DPT could range from \$59,867 to \$72,754,<sup>5</sup> including salary and benefits, unless an existing DPT position could be identified for this purpose. Implementation of performance specifications and checklist inspections for all of the garages would achieve efficient garage operation, maintain satisfactory service levels, and maximize net revenues to the City.

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<sup>4</sup>The recommended addition of a professional position to the Off-Street Parking Division would also be able to take responsibility for oversight of the non-profit garages, if the City were to dissolve the non-profit corporations when that is legally possible. (See Section 5). As discussed in Section 5, we only recommend the dissolution of the non-profit corporations if the other recommendations made in this report are not implemented.

<sup>5</sup>The salary estimate is based on the current salary range for a Senior Administrative Analyst.

## **SECTION 2: CONTRACT ISSUES: NON-PROFIT GARAGES**

- THE PRIMARY TOOL FOR OVERSIGHT OF THE NON-PROFIT GARAGES -- THE GARAGE BUDGET -- IS INEFFECTIVE. AUTHORITY IS VESTED IN THE CONTROLLER'S OFFICE, WHICH APPROVES BUDGETS WITH MINIMAL ANALYSIS AND INADEQUATE MONITORING, AND APPROVES DISBURSEMENTS WITHOUT COMPARING ACTUAL EXPENDITURE RATES TO THE BUDGETS. EVEN IF THE BUDGET APPROVAL PROCESS WAS IMPROVED, IT WOULD PRODUCE LESS EFFICIENT RESULTS THAN WOULD COMPETITIVE BIDDING BY THE NON-PROFITS OF FIXED RATE OPERATOR CONTRACTS.
- THE NON-PROFITS SHOULD USE THE MOST RECENT FIXED RATE OPERATOR FACILITY MANAGEMENT CONTRACTS AS A MODEL FOR THEIR OWN OPERATOR CONTRACTS. SUCH CONTRACTS SHOULD BE BASED ON A PERCENTAGE OF GROSS REVENUES TO COVER OPERATING EXPENSES AND PROFIT WHEN LEGALLY AND FINANCIALLY FEASIBLE. WHERE A BID BASED ON A PERCENTAGE OF GROSS REVENUES IS NOT FEASIBLE, CONTRACTS SHOULD BE BID BASED ON A FIXED LEVEL OF COMPENSATION THAT COVERS OPERATING EXPENSES AND PROFIT, IN CONTRAST TO THEIR EXISTING CONTRACTS WHICH PROVIDE FOR A FLAT MANAGEMENT FEE AND REIMBURSEMENT FOR OPERATING EXPENSES. FURTHER, THE NON-PROFITS SHOULD DESIGN PERFORMANCE SPECIFICATIONS AND INSPECTION CHECKLISTS TO ENSURE A SATISFACTORY STANDARD OF SERVICE.

### **Non-profit Leases**

The City currently leases five garages to non-profit corporations. (See Table 2, page 11.) A sixth non-profit corporation, the Civic Plaza Parking Corporation, retired its debt in 1990 and is dissolving voluntarily. The City entered into long term leases with the non-profit garage corporations at the time the corporations were formed. Over the years, the leases have been revised when a garage issued new bonds to finance expansion, or when a garage retired the debt from its original bond financing.<sup>1</sup> The Japan Center garage continues to use all net income for bond interest and redemption, and to satisfy reserve requirements as required by bond indentures. The Portsmouth

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<sup>1</sup>As explained in Section 1, the non-profit corporations were established to issue revenue bonds to finance acquisition and construction of the garages.

Plaza Parking Corporation and the Uptown Parking Corporation (which leases the Sutter-Stockton Garage) have negotiated agreements to pay the City 85 percent of their net annual income in rent.<sup>2</sup> The leases of the Downtown Parking Corporation (which leases the Fifth and Mission garage) and the Ellis-O'Farrell parking corporation have recently been amended to require that 85 percent of net annual income be remitted to the City. The Civic Plaza Parking Corporation, which is presently being dissolved, has a lease that requires payment of 100 percent of net annual income in rent.

The leases specify that the City can set and change parking rates and garage operating hours at any time, as long as the rates will produce enough revenues to make payments on outstanding debt, cover reserve requirements and to reimburse the operators for their budgeted operating expenses.

The leases do not specify operational performance standards for the garages. General language such as operating a "first class parking garage" and maintaining the garage in "good condition" appears in the leases, along with requirements to pay prevailing wages to employees and adhere to non-discrimination regulations.

The leases grant the City Controller authority over non-profit budgets and disbursements.<sup>3</sup> The Parking and Traffic Commission is given no control over regular operating expenses. The non-profit corporations leases state that an annual budget, approved by the board of directors, must be submitted to the Controller, the Parking and Traffic Commission, and the trustee under the security instrument (where applicable). However, such leases give the City Controller sole authority to approve or change the budget. Similarly, the leases require the Controller's endorsement of all disbursements for operating expenses. In general, the non-profit corporations have voluntarily complied with requests for information made by the DPT. The Commission is entitled to a copy of the monthly statement of receipts and costs of operation, but has no explicit authority to approve or disapprove disbursements. The Controller is also authorized, under the leases, to conduct audits of corporation revenues and expenses.

### Non-profit Operator Contracts

The non-profit corporations do not directly manage the garages. Instead, they contract with professional garage operators. None of the non-profits has implemented a competitive bidding process for operation of a non-profit garage. Occasionally, operators have changed when an operating company went out of business and assigned its lease to a new operating company. In these cases, the non-profit corporation and the Parking Authority have approved the assignment of the contract. A summary of the non-profit's contracts with operating companies is provided on the following page (Table 2.1).

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<sup>2</sup>The Portsmouth Plaza Parking Corporation has retired its debt. The Uptown Parking Corporation is still making payments on its bonds, but has sufficient net revenue to make payments to the City.

<sup>3</sup>Typical language in the non-profit leases states that, "Such City Controller shall review the budget and make such recommendations...as he may deem advisable...Each such budget shall be changed to conform to any recommendations of the City Controller." The bank that holds daily receipts deposits is authorized to pay "to the Lessee, subject to examination, audit and approval by the City Controller, all normal and reasonable operating and maintenance expenses."

**Table 2.1**  
**Operators of Non-profit Garages**

GARAGE/ OPERATOR	HISTORY	ANNUAL MANAGEMENT FEE
Ellis-O'Farrell/ <i>Pansini Corporation - The Parking Place</i>	Pansini took over the contract under an assignment from the previous operator in 1981. After expiration of the 5-year assigned lease, the operator has been renewed annually.	\$46,350
Japan Center/ <i>Pansini Corporation - The Parking Place</i>	Pansini (as part of partnership) purchased assignment from garage developer in 1986. Pansini's contract is now renewed annually.	\$42,907
Sutter Stockton/ <i>AMPCO</i>	Original operator System Parking was purchased by AMPCO in 1993. System Parking operated the garage for 33 years.	\$32,000
Civic Center/ <i>AMPCO</i>	System Parking operated the garage from 1984 until 1993 when System Parking was purchased by AMPCO.	\$10,000
Fifth & Mission/ <i>City Park</i>	City Park took over contract under assignment from the original operator, S.E. Onorato, in 1993. S.E. Onorato Inc. operated the garage for 30 years. City Park has a one-year contract.	\$10,000
Portsmouth Square/ <i>City Park</i>	City Park took over the contract under assignment from the original operator, S.E. Onorato, in 1993. S.E. Onorato Inc. operated the garage for 32 years. City Park has a one-year contract.	\$10,000

The management fee for three of the six non-profit garages has been \$10,000 annually since the original operator entered into a contract with the non-profit corporation. The Ellis-O'Farrell Parking Corporation engaged a parking consultant in 1985 to establish a basis for compensating the garage operator, which was used to adjust the compensation to its current level (\$46,350). The Japan Center and Sutter-Stockton garages followed the lead of the Ellis-O'Farrell Garage in adjusting operator compensation rates in the late 1980s.

Rather than establish compensation based on historical custom or a consultant's analysis, the non-profit garage corporations should regularly put the operating contracts out to bid, just as the City does for the direct operation garages. A competitive selection process would ensure that the rate of compensation is competitive.

This year, the Parking and Traffic Commission has directed the non-profit corporate boards of directors to develop procedures for putting the operating contracts out to bid. Contract awards should be approved by the Parking and Traffic Commission and the Board of Supervisors. Because the non-profits are independent of the City, they could legally use bid procedures that are not based exclusively on acceptance of the low bid. If the non-profits choose to consider other factors, such as an operator's marketing experience, they should propose a clear point system for rating bidders on all criteria. Each non-profit should establish a schedule for putting their operating contract out to bid every three to five years.

A competitive bid for supervisory costs alone, however, will not achieve significant savings or improved garage management. Operating company executives reported in interviews conducted for this audit that the non-profit corporation staff and legal counsel assume much of the day-to-day responsibilities for supervising on-site garage management. This arrangement suits the operators, because they have nothing to gain from improving management of the non-profit garages. They are reimbursed for operating expenses, so cutting expenses does not benefit them directly. In addition, they are paid a flat fee, so increasing revenues does not effect their level of compensation.

Most operating companies under contract to the non-profit garages manage other Bay Area garages as well. Because these operators have fixed rate contracts with most of their other clients, the reimbursed operator contract with the non-profit corporations provides an incentive for the operating companies to place their most costly (i.e. high seniority) and/or least productive employees in the City-owned non-profit garages. Labor costs might be reduced over time if operating cost reimbursement is eliminated.

For the non-profit corporations with outstanding bonded indebtedness, there are legal restrictions against using a percentage of gross revenues to compensate operators.<sup>4</sup> Even if the operators cannot be given an incentive to increase revenues, however, their contracts can be changed to create an incentive to contain costs. The City requires operators to submit bids that cover operating expenses for the direct operation garages. There is no reason why the non-profit corporations could not establish the same sort of fixed rate management contract with their operators.<sup>5</sup>

Some staff and board members of the non-profit corporations caution that reimbursement of operating expenses is important to preserving a high quality of service at the non-profit garages. Asking operators to commit to a level of compensation that covers operating expenses, they argue, creates an incentive for the operators to cut corners. Under the fixed-rate contract, money saved in reduced expenses results directly in increased profits for the operators. Some non-profit corporations fear that a change to the fixed rate form of operator contract would not increase efficiency at the non-profit garages, but instead would reduce service in unacceptable ways.

The reimbursement of operating expenses necessitates non-profit approval of an operating budget, and of ongoing disbursements against that budget. Some non-profit corporation staff believe that the budget process gives the non-profits (and by extension, the City) an opportunity to control the management of the garages closely. This control is sacrificed under the fixed rate operator contract. In fact, however, as demonstrated in the remainder of this section, the current budget approval process for non-profit garages is an ineffective management tool.

The arguments in favor of reimbursement of expenses assume that the only way to ensure quality of service from an operator is to dictate the operator's budget. However, as discussed previously, another commonly-used alternative is available to the non-profit garage corporations: building performance specifications with penalty clauses into the operator contract, and monitoring compliance with the specifications, as recommended earlier for the direct operation garages. In this way the non-profits could give the operators an incentive to reduce costs, by making them responsible for paying operating expenses, but establish a satisfactory level of service that the operators must meet.

## **Budget Approval Process**

The City's leases with the non-profit garage corporations require operating budget approval by the Controller of the City and County. Budgets for most City operations are developed by the City department that has functional responsibility for programs and services. Proposed budgets for most departments are approved by a commission or the Chief Administrative Officer, and submitted to the Mayor. The

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<sup>4</sup>Because repayment of the bonds comes from garage revenues, Federal law prohibits agreements that provide the operator with more than 50 percent of their compensation based on revenues.

<sup>5</sup>We consulted with the non-profits' bond counsel, who advises that, as long as operators do not receive more than 50 percent of their compensation based on a percentage of gross revenues, there is no legal restriction on converting operator contracts to make the operators responsible for operating expenses.

Mayor submits a final recommended budget to the Board of Supervisors for approval. Because they operate as businesses, the budgets of the non-profit garages have been exempted from the normal budget approval process.

The garage operator, the on-site manager and the non-profit corporation staff prepare the annual non-profit garage budgets, with varying degrees of participation by each party depending on the garage. All non-profits use the same budget format, which was developed by the Controller and the Parking Authority. Proposed budgets must be approved first by the non-profit board of directors, after which they are submitted to the DPT. The Parking and Traffic Commission, in turn, transmits the proposed budgets to the Controller. The leases with the non-profits establish that only the Controller has the authority to approve their budgets. To date, Controller's Office staff state that they have voluntarily adopted the Parking and Traffic Commission's recommendations regarding non-profit garage budgets. However, this informal cooperation may not always occur. The Commission should be granted the authority to approve the budgets of non-profit garages until all garages are converted to fixed rate agreements, whereby each operator is responsible for paying the garage operating expenses without reimbursement from the City. Furthermore, as detailed below, the Controller does not enforce the budgets when approving disbursements. For these reasons, the budget approval process for the non-profit garages is structurally flawed.

### **Accuracy of Budget Documents**

To make sound decisions regarding a proposed budget, the non-profit corporations, the DPT and the Controller need to have accurate information regarding actual historical expenses. A report issued by the Controller's Audits Division on October 22, 1993 advises that two of the non-profit corporations exceeded their approved budgets in FY 1992-93. The report states that, "The Downtown Parking Corporation exceeded its fiscal year 1992-1993 budget by \$55,061 (3.5 percent), which was due to the increase in garage repair and maintenance as a result of expansion work at the garage. The Uptown Parking Corporation exceeded its fiscal year 1992-1993 budget by \$215,624 (12.9 percent)." In addition, the Audits Division found that the Ellis-O'Farrell Parking Corporation exceeded budgeted line items (but not its total budget) for legal expenses by \$22,742 (46.5 percent) and garage damage by \$5,913 (51.9 percent).

The format for submittal of proposed non-profit garage budgets for FY 1993-94 required the non-profit corporations to show FY 1991-92 actual spending, and FY 1992-93 budgets. Consideration of new budget requests by the Parking and Traffic Commission and the Controller was clearly distorted by the fact that FY 1992-93 budgets did not provide accurate historical expenditure data.

In addition, a comparison of FY 1991-92 audited financial statements to "actual" FY 1991-92 expenses as shown in the FY 1993-94 budget proposals, shows that, in many cases, even the older historical budget data is incorrect. While individual line items may differ between a budget document and an audited financial statement because of classification differences, three of the five non-profit garages for which audited financial statements were available had variances of over \$10,000 in the total expenses for FY 1991-92, as shown below in Table 2.2.

**Table 2.2**

**Non-profit Garage FY 1991-92 Expenses  
Audited Financial Statements vs. 1993-94 Budget Documents**

<u>Non-profit Garage</u>	<u>Audited Total Operating Expenses</u>	<u>"Actual" Expenses in Budget Docs.</u>	<u>Amount Audit Above/(Below) Budget Document</u>
Ellis-O'Farrell	\$1,809,214	\$1,809,214	0
Fifth & Mission	1,457,002	1,491,580	(\$34,578)
Japan Center	901,165	901,165	0
Portsmouth Square	799,762	787,500	12,262
Sutter-Stockton	1,594,537	1,567,950	26,587

Audited FY 1991-92 financial statements for Civic Center Garage were not completed as of the writing of this report.

The overall differences between the audited financial statements and the budget documents amount to approximately five percent of each garage's total audited operating expenses. The effect of an understatement of actual historical expenses would be to create the impression that a facility is operating more efficiently than it actually is. The effect of an overstatement of actual historical expenses, whether intentional or not, would be to imply that more funds are required than is actually the case, when funding decisions are made.

Without opening the contract to competitive bid, the only basis for analysis of a garage's operating budget is its own historical expenses. If non-profit board members and Parking and Traffic Commissioners cannot rely on the accuracy of historical data, it is doubtful that they can exercise control over the efficiency of garage operations through the budget process. If the non-profit board of directors went through a regular competitive selection process for the garage operating contract, the board of directors and the City could focus on the level and types of services needed at the garage, rather than on understanding individual line items of

a budget. A fair competitive bid process would reward the most efficient qualified operator and would be in the best interest of the City.

## **Budget Monitoring and Control**

Interviews with on-site garage managers indicate that few of the managers use the adopted budget as a financial control instrument during the course of the fiscal year. Either the manager or the operating company central staff prepare a monthly Earnings and Expense Statement that is submitted to the non-profit staff. (Payrolls are typically submitted bi-weekly.) There is no uniform format for the statements, but they generally show expenses compared to the annual budget, and some do not show the year-to-date percentage of the budget that has been expended. The non-profit corporation submits the Earnings and Expense Statement to the Controller, and forwards a copy of the Statement to the DPT and the DRE, although these departments have no control over reimbursement. The non-profits submit requests for reimbursement to the Controller two or three times a month. The Controller's approval is necessary for either City or Trustee reimbursement.

The non-profit leases require that proposed budgets be submitted to the Controller prior to the start of each fiscal year. The Downtown Parking Corporation submitted its proposed budget for FY 1991-92 three months after the start of the fiscal year, and submitted its proposed budget for FY 1992-93 eight months after the start of the fiscal year. Nevertheless, the non-profit corporation was reimbursed for operating expenses without an approved budget. Corporation staff have also submitted budgets prior to obtaining approval from their Board of Directors.

It is the Controller's responsibility to oversee non-profit garage spending, to ensure that expenditures remain in conformance with the approved budget for each garage. However, the Controller is approving expenditures on the basis of an informal "reasonableness" test, without comparing actual expenditure rates to the budgets. As noted above, the Controller's Audits Division found that, in fact, three of the non-profit corporations exceeded their budgets or major line items in FY 1992-93 without obtaining documented approval from the Controller.

During the course of this audit, we requested that the Controller's Office provide us with copies of their year-end comparison of budgeted expenses to actual reimbursed expenses for FY 1992-93, as well as a year-to-date comparison for FY 1993-94. After five weeks during which this request was repeated on a weekly basis, the Controller's office provided us with a package of financial statements prepared by the non-profit or their accountants. Clearly, the Controller is not recording (and therefore not carefully checking) non-profit garage expenses as a drawdown to their approved budget prior to authorizing reimbursement. Discussions with staff in the Controller's Office indicate that, with reduced staff due to City budget constraints, monitoring the garage budgets is considered low priority.

Section 17.17 of the Administrative Code requires the Controller to produce an annual public parking facilities statement of operations. The most recent such report was produced by the Controller for FY 1989-90. This report included: a schedule of long-term debt and debt service requirements; a statement of operations with lease terms, gross revenue and rental revenue for each City-owned garage; historical sources and applications of funds for the non-profit garages; and a review of the year's activities for each garage. The absence of any such report in recent years is further testimony to the lack of active oversight of the non-profit garage budgets on the part of the Controller.

The DPT is not responsible for approval of disbursements to the non-profit garages, but the Department does have an interest in seeing that City parking revenue projections are met, and that parking garage policies are enforced. Like the Controller, however, the DPT does not monitor drawdowns to non-profit garage budgets on a regular basis. This is, in part, because of the DPT's lack of authority over garage budget matters. Because the DPT has no control over garage reimbursement, the non-profit garages neglect to forward monthly Earnings and Expense Statements to the DPT on a consistent and timely basis. Furthermore, the DPT advises that the current responsibilities of the Director of Off-Street Parking provide inadequate time for him to analyze monthly statements for the non-profit garages. However, because of the Parking and Traffic Commission's concern about achieving budgeted revenues, the DPT Finance Director reports monthly to the Commission on overall garage revenues compared to projected revenues.

The consequences of inadequate budget monitoring were clearly illustrated by the recent performance of the Sutter-Stockton Garage. At the end of FY 1992-93, Sutter-Stockton Garage was found to have exceeded its budget in several categories. DPT staff requested that the auditor for the non-profit Uptown Parking Corporation meet with the corporate staff to develop a better method for internal monitoring of the garage expenses. As a result of the meeting, the non-profit corporation began to include a single-month pro-rated comparison in its Earnings and Expense Statement.

Three months into FY 1993-94, DPT staff reviewed gross revenues and net revenues to the City from Sutter Stockton in preparation of a monthly revenue report for the Commission. They discovered that, while gross revenues were up ten percent from last year, net revenues to the City were down eight percent due to over-expenditures. At this point, DPT staff realized that they had not received monthly statements for the Sutter-Stockton Garage since the start of the fiscal year. Staff requested and obtained the statements, and after analysis asked the Uptown Parking Corporation staff to prepare a revision to the budget for submittal to the Parking and Traffic Commission. As of the writing of this report, the revision was being developed.

During the first three months of FY 1993-94, (May to July 1993) labor costs for Sutter-Stockton Garage had significantly increased, largely because a number of employees were suspended with pay.<sup>6</sup> They were temporarily replaced, in some cases by bringing in on-call employees, and by paying existing staff overtime. Equipment malfunctioning and unanticipated special events also contributed to high payroll expenses. By the end of July 1993, the garage had expended 34 percent (rather than 25 percent for 3 months, as it should be) of its total FY 1993-94 budget. Payroll expenses amounted to 39 percent of the payroll budget for the year, and telephone expenses, though a small portion of the total budget, were 157 percent of the full year's telephone budget at the end of the first quarter. Despite the fact that this pace of spending could not be sustained within the approved budget, the Controller certified each month's reimbursement request.<sup>7</sup>

The cost overrun was only detected by DPT staff during their work on the Commission report because it occurred in one of the two non-profit garages that currently contribute net revenues to the General Fund. The Commission has not monitored revenues that are used to meet debt service, as was the case for the remaining three non-profit garages.

Besides showing the inadequate nature of non-profit garage budget monitoring, the preceding example points to the absence of a regular procedure for changing budgets when necessary during the fiscal year. According to the Controller's Office, the Controller expects to receive "informal notice" of changes, and negotiates revisions with non-profit corporation legal staff. DPT staff report that, approximately ten years ago, the Parking Authority established a requirement that non-profit garages submit any change in a line item of more than \$2,000 or 12.5 percent of the budgeted amount to the Commission for approval. DPT staff advise that the Commission has been unable to enforce this rule, because of the lack of budget monitoring, the fact that the Controller does not notify the DPT of negotiated changes, and -- most important -- the absence of any formal DPT authority over non-profit garage budgets. If the Uptown Parking Corporation submits a request for a budget revision, it will be the first such request that has been taken to the Parking and Traffic Commission in at least five years.

### **Performance Monitoring**

At the majority of the non-profit garages, the non-profit corporate staff is more involved in day-to-day management than is the operating company. The operating companies tend to give the non-profit staff control over on-site management and routine decision-making. The non-profit leases and the operator contracts provide only broad guidelines for performance. Some of the non-profit budgets provide detail on items like security and maintenance schedules, but in general there is an informal understanding about the quality of service that is expected from garage management. With performance specifications in the operator

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<sup>6</sup>Employee mishandling of an incident in which a customer was mistakenly treated as an intruder led to the suspensions.

<sup>7</sup>The reimbursement requests were certified net of legal expenses, which were under investigation by the Controller's Internal Audits Division at the time.

contract, performance requirements would be clearly communicated, and monitoring would be facilitated.

The non-profit corporations serve as the City's on-site quality assurance inspectors for the garages they control. Members of their boards of directors include local business leaders who, in many cases, take an active interest in garage performance. Board members informally spot-check garage cleanliness, waiting lines and other matters. The non-profit management and legal staff monitor the garages on a regular basis, working directly with the on-site managers to perform trouble-shooting functions.

The Director of Off-Street Parking tries to visit each non-profit garage on a monthly basis, but because of workload, relies heavily on the non-profit corporations to uphold adequate standards of performance by the on-site management. The Director reports that there is no formal procedure for processing complaints about the garages. Callers to the DPT are urged to try to resolve their problem with the garage on-site manager. If there is still a problem, the Director personally investigates the situation. While no statistics are kept about garage complaints, the Director reports that few complaints are received by the DPT.

## **CONCLUSION**

The primary tool for oversight of the City-owned non-profit garages -- the garage budget -- is ineffective. Oversight authority is vested in the Controller's Office. The budget approval process and the monitoring of the budgets by the Controller's Office has been inadequate. Neither the Controller nor the DPT feel that they have the staff to monitor garage spending actively. Even if the budget approval process was improved, it would produce less efficient results than would competitive bidding by non-profits of fixed rate operator contracts. The City and the non-profit corporations should amend the leases to eliminate the budget approval process, and replace it with regular bidding of fixed rate operator contracts. This will greatly increase the involvement of operating companies in management of the non-profit garages.

The non-profit corporations have a natural interest in the quality of service at the garages, because their boards of directors are composed of area business leaders who benefit from garage patronage. The non-profits can design detailed performance specifications to be included in a bid package, using the City's most recent management contracts as models. The non-profits can also assist in monitoring contract performance during the course of the operating contract, leaving direct management to the operating companies. The Parking and Traffic Commission can then focus on the crucial task of balancing service and revenue goals, in their review and approval of bid specifications and contracts.

## **RECOMMENDATIONS**

All of the Non-profit Parking Corporations should:

- 2.1 Convert the existing operator contracts, which provide for a flat management fee and reimbursement of operating expenses, to fixed rate operator contracts, under which the operator agrees to a level of compensation based on a percentage of gross revenues to cover operating costs and profit when legally and financially feasible. Where a bid based on a percentage of gross revenues is not feasible, contracts should be bid based on a fixed level of compensation that covers operating expenses and profit. In either type of fixed rate contract, the operator is responsible for paying operating expenses without receiving any additional reimbursement of such expenses by the City. Submit non-profit budgets for formal approval by the Parking and Traffic Commission until the recommended fixed rate contracts are in effect.
- 2.2 Competitively bid fixed rate operator contracts for City-owned garages on a regular basis, at least every five years. The bid processes need not have to adhere strictly to acceptance of the lowest qualified bid, but should clearly indicate a point system for rating bidders on other criteria, to be approved by the Parking and Traffic Commission.
- 2.3 Work with the City to amend their leases, eliminating the budget approval process and reimbursement procedures other than for strictly non-profit corporate expenses such as legal and corporate manager expenses which should be approved by the Parking and Traffic Commission. Replace the budgetary approval of operating expenses with a competitive selection process. The amended leases should give the Parking and Traffic Commission the authority to approve contract specifications, as well as the bidding process. The Commission and the Board of Supervisors should have authority to approve the final bid award for each non-profit garage operating contract. The amended leases should retain the authority of the Controller to audit garage revenues.
- 2.4 Include detailed performance specifications and reporting requirements with penalty clauses in all management contracts with operators.
- 2.5 Direct their staff to monitor compliance with performance specifications, and report to the Parking and Traffic Commission every six months on operator performance and revenues.

## **COSTS/BENEFITS**

Implementation of a competitive bidding process for fixed rate contracts with the non-profit garage operators, along with performance specifications and checklist inspections, should achieve more efficient garage operations, maintain satisfactory service levels, and maximize revenues to the City.

### **SECTION 3: PORTSMOUTH PLAZA PARKING CORPORATION**

- ALL OF THE NON-PROFIT PARKING CORPORATIONS, EXCEPT PORTSMOUTH PLAZA PARKING CORPORATION, HAVE ADHERED TO THEIR LEASES WITH THE CITY, INCLUDING REMITTING ANY OF THE REQUIRED PERCENT OF NET REVENUES IN A TIMELY MANNER. HOWEVER, BETWEEN 1987 AND 1993, PORTSMOUTH PLAZA PARKING CORPORATION HAS BEEN BETWEEN ONE MONTH TO TWO YEARS DELINQUENT IN REMITTING ITS LEASE PAYMENTS DUE TO THE RECREATION AND PARK DEPARTMENT. THE LAST PAYMENT MADE BY THE CORPORATION FOR FISCAL YEAR 1991-92, WAS REMITTED TO THE CITY IN NOVEMBER OF 1993, JUST PRIOR TO THE RELEASE OF THIS REPORT. CURRENTLY THE PORTSMOUTH PLAZA PARKING CORPORATION OWES THE RECREATION AND PARK DEPARTMENT \$538,832 IN BACK LEASE PAYMENTS FROM THE PAST SIX FISCAL YEARS. THE PORTSMOUTH PLAZA PARKING CORPORATION HAS CONSISTENTLY NOT ADHERED TO THE LEASE REQUIREMENTS AND HAS NOT REPAYED A \$500,000 CONSTRUCTION LOAN MADE BY THE RECREATION AND PARK DEPARTMENT.
- THE CITY'S LEASE WITH THE PORTSMOUTH PLAZA PARKING CORPORATION SHOULD BE TERMINATED AS EXPEDITIOUSLY AS POSSIBLE.
- IF THE CITY DOES NOT TERMINATE ITS LEASE WITH THE PORTSMOUTH PLAZA PARKING CORPORATION, THE CITY AND THE CORPORATION SHOULD ENTER INTO A WRITTEN AGREEMENT REGARDING A MUTUALLY ACCEPTABLE AND FINANCIALLY FEASIBLE AMORTIZATION SCHEDULE FOR REPAYMENT OF THE LOAN AND PAST DUE LEASE PAYMENTS.

All of the non-profit parking corporations, except the Portsmouth Plaza Parking Corporation, have adhered to their leases, including remitting any of the required percent of net revenues due to the City in a timely manner. The City's lease with the Portsmouth Plaza Parking Corporation requires this non-profit corporation to make annual payments to the City of 85 percent of the Corporation's net revenues. Because the Portsmouth Square Garage is the Recreation and Park Department's property, Portsmouth Plaza Parking Corporation is supposed to remit its annual payments to the Recreation and Park Department. The City's lease requires that such annual payments be made before the first day of June. Between 1987 and 1993, the Corporation has been consistently late in making those

payments -- from a month to two years late. As described in Table 3.1, the Portsmouth Plaza Parking Corporation owes the City \$538,832 in back payments.

**Table 3.1**

**Portsmouth Square's History of Delinquent Payments to the Recreation and Park Department**

Fiscal Year	Amount Due	Due Date	Days Delinquent	Date Paid	Amount Paid	Difference
1987-88	\$109,780	6/1/88	399	--	\$0.00	(\$109,780)
1988-89	640,600	6/1/89	34	7/5/89	750,380	109,780
1989-90	586,703	6/1/90	790	7/30/92	586,703	0
1990-91	647,628	6/1/91	673	4/4/93	647,628	0
1991-92	433,462	6/1/92	430	11/10/93	433,462	0
1992-93	<u>538,832</u>	6/1/93	<u>65</u>	--	<u>0.00</u>	<u>(538,832)</u>
Totals	\$2,957,005		2,391		\$2,418,173	\$538,832

In an April 29, 1993 letter to the DPT, the President of the garage operating company that manages Portsmouth Square Garage asserts that the Garage has been unable to make its annual 85 percent of net revenue payments to the Recreation and Park Department because of an unpaid outstanding loan of \$500,000 made by the Recreation and Park Department to the Portsmouth Plaza Parking Corporation in January of 1991 to construct an elevator tower and make other improvements to the Portsmouth Square Garage. The total cost of the elevator tower and other Plaza improvements was \$2,252,524. However, pursuant to the loan agreement the \$500,000 loan was to be repaid using the 15 percent of retained net revenues and has nothing to do with the \$538,832 owed to the City.

The letter further states that 45 percent or \$1,018,140 of the improvements to the elevator and Plaza should have been paid by the Recreation and Park Department since those improvements were on Recreation and Park Department property and not part of the Garage. The letter suggests that if the Recreation and Park Department forgives the \$500,000 unpaid loan, the Portsmouth Plaza Parking Corporation would be in a position to repay the Recreation and Park Department the \$538,832 in overdue payments. However, the Portsmouth Plaza Parking Corporation has not begun repaying the \$500,000 loan. As noted above, the \$500,000 unpaid loan has no bearing on the Corporation's delinquent payments to the Recreation and Park Department. In fact, the \$500,000 loan was to be repaid using the Corporation's 15 percent of net revenues retained while the annual payments to the Recreation and Park Department are based on 85 percent of net revenues.

The circumstances surrounding the Recreation and Park Department's \$500,000 loan to the Portsmouth Plaza Parking Corporation and the subsequent delinquent lease payments are not entirely clear. It is also unclear whether the Corporation or City departments acted illegally. The City Attorney's Office has not reviewed the situation and is therefore unable to provide an opinion regarding any

legal issues resulting from the loan or delinquent payments. To answer any legal questions, the Parking and Traffic Commission should request the City Attorney to review the circumstances surrounding the \$500,000 loan and the delinquent payments and issue an opinion to the Parking and Traffic Commission.

The Controller's Office and the Recreation and Park Department have had meetings and conversations with the attorney for the Portsmouth Plaza Parking Corporation to establish a schedule that would permit the Corporation to repay the back payments. However, to date, no such schedule has been established and there has been no agreement as to when the Recreation and Park Department will receive its \$538,832 in back payments or repayment of the \$500,000 loan.

In short, the Portsmouth Plaza Parking Corporation has consistently not adhered to its lease requirement to remit 85 percent of net revenues to the City before the first day of June each year, and has not repaid the construction loan made by the RPD. This has caused financial problems for the Recreation and Park Department. The City should therefore terminate its lease with the Portsmouth Plaza Parking Corporation, as expeditiously as possible. The Department of Parking and Traffic (DPT) should assume management of the Portsmouth Square Garage.

According to the City Attorney's Office, to terminate its lease with Portsmouth Plaza Parking Corporation, the City would first be required to give written notice to the Corporation of an event of default under the lease. The Corporation would then have 30 days to make the overdue lease payments. If, after 30 days, the Corporation fails to make the overdue lease payments, the lease could be terminated and the Department of Parking and Traffic would assume management of the Portsmouth Square Garage. On termination of the lease, DPT could continue to use the existing operator while beginning the competitive bid process to select a new operator.

In the event that the City terminates the lease with the Portsmouth Plaza Parking Corporation all unencumbered assets of the Corporation would revert to the City due to the fact that the City is sole shareholder of the Corporation. However, the Corporation's assets may not be sufficient to fully repay the back payments to the City.

If the Parking and Traffic Commission decides not to terminate its lease with the Portsmouth Plaza Parking Corporation, the Parking and Traffic Commission should instead request the City Attorney's Office, the Controller's Office, the Recreation and Park Department and the Portsmouth Plaza Parking Corporation to meet and develop a mutually acceptable and financially feasible amortization schedule for the Portsmouth Plaza Parking Corporation to repay the \$538,832 in back payments and the \$500,000 construction loan. The Commission should request that such a schedule be developed within a specified time period. The City and the Corporation should then enter into a written agreement regarding that schedule.

Legal expenses were incurred by the Portsmouth Plaza Parking Corporation of \$35,961 in fiscal year 1991-92. Termination of the lease would largely eliminate the need for these legal expenses as is shown on Table 5.1 in Section 5.

## **CONCLUSION**

All of the non-profit parking corporations, except the Portsmouth Plaza Parking Corporation, have adhered to their lease provisions with the City, including remitting any required lease payments in a timely manner. Between 1987 and 1993, Portsmouth Plaza Parking Corporation has been between one month to two years delinquent in remitting its lease payments to the Recreation and Park Department (RPD) and currently owes the RPD \$538,832 in back payments. Further, this Corporation has not repaid a \$500,000 construction loan.

## **RECOMMENDATIONS**

The Parking and Traffic Commission should:

- 3.1 Terminate its lease with the Portsmouth Plaza Parking Corporation as expeditiously as possible.
- 3.2 Assume oversight of the Portsmouth Square Garage operations.
- 3.3 Competitively bid the garage operator agreement.
- 3.4 Request the City Attorney to review the circumstances surrounding Portsmouth Plaza Parking Corporation's unpaid loan and late payments to determine whether action was taken in violation of City rules and procedures.

If the Parking and Traffic Commission does not decide to terminate its lease with the Portsmouth Plaza Parking Corporation, the Commission should:

- 3.5 Request the City Attorney, the Controller's Office, the Recreation and Park Department and the Portsmouth Plaza Parking Corporation to meet and develop a mutually acceptable and financially feasible amortization schedule for the Portsmouth Plaza Parking Corporation to repay the \$538,832 in back payments and the \$500,000 construction loan. The Commission should request that such a schedule be developed within a specified period of time and that the City and the Corporation enter into a written agreement regarding that schedule.

## **COSTS/BENEFITS**

Terminating the lease with the Portsmouth Plaza Parking Corporation should provide the Recreation and Park Department with consistent and timely lease payments, approximating \$600,000 annually. In addition, the City would save an estimated \$35,000 annually in legal expenses. If the Portsmouth Plaza Parking Corporation lease is terminated, the City Attorney's Office and the Department of Real Estate would incur approximately \$4,360 to bid the Portsmouth Square Garage operator contract.

## SECTION 4: NON-PROFIT PARKING CORPORATIONS' LEGAL SERVICES

- IN FY 1991-92, TWO ATTORNEYS PROVIDED THE SIX NON-PROFIT PARKING CORPORATIONS WITH 2,970 HOURS OF LEGAL AND CORPORATE MANAGEMENT SERVICES AT A COST OF \$399,239. THE PAYMENT TO ATTORNEYS FOR MANAGEMENT SERVICES IS EXCESSIVE AND SHOULD BE DISCONTINUED. IF THE TWO ATTORNEYS PROVIDED STRICTLY LEGAL SERVICES AND A CORPORATE MANAGER AND ADMINISTRATIVE ASSISTANT PROVIDED THE MANAGEMENT SERVICES, THE NON-PROFIT PARKING CORPORATIONS COULD REDUCE THEIR ANNUAL EXPENSES BY NEARLY 30 PERCENT OR \$111,142 ANNUALLY. IN FACT A COMPARISON OF THE HOURLY RATE OF A CORPORATE MANAGER HIRED BY TWO OF THE NON-PROFIT CORPORATIONS, TO THE HOURLY RATES OF THE TWO ATTORNEYS, REVEALS THAT THE HOURLY RATES OF THE ATTORNEYS ARE APPROXIMATELY 229 PERCENT TO 295 PERCENT HIGHER THAN THE HOURLY RATE OF THE CORPORATE MANAGER.
- THE ATTORNEY FOR THE CIVIC PLAZA, DOWNTOWN, PORTSMOUTH PLAZA, AND UPTOWN PARKING CORPORATIONS FREQUENTLY MULTIPLE BILLED HIS NON-PROFIT PARKING CORPORATION CLIENTS FOR THE SAME SERVICE. SUCH MULTIPLE BILLINGS RESULTED IN AN HOURLY RATE OF \$550 FOR PROVIDING SUCH ACTIVITIES AS ATTENDING PUBLIC MEETINGS, REVIEWING MEETING AGENDAS AND MAKING TELEPHONE CALLS. THE TOTAL ESTIMATED COST OF THESE MULTIPLE BILLINGS FOR FY 1991-92 IS \$19,923. THESE OVERCHARGES OF \$19,923, WHICH ARE ESSENTIALLY A COST TO THE CITY, SHOULD BE IMMEDIATELY PAID BACK TO THE APPLICABLE NON-PROFIT PARKING CORPORATIONS BY THE SUBJECT ATTORNEY. THE CONTROLLER'S OFFICE RECEIVED ALL OF THE INVOICES AND SHOULD HAVE BEEN AWARE OF THE MULTIPLE BILLING PRACTICES AT THE TIME THE BILLS WERE SUBMITTED FOR APPROVAL. THIS PRACTICE OF MULTIPLE BILLING HAS EXISTED FOR SEVERAL YEARS. THE CONTROLLER DISCONTINUED APPROVING PAYMENT FOR SUCH MULTIPLE BILLINGS IN JUNE, 1993.

Since the inception of the non-profit parking corporations in the 1960s, two attorneys have been retained to provide the corporations with legal and corporate management services. Currently, one attorney represents the Ellis-O'Farrell and Western Addition Parking Corporations and the other attorney represents the Downtown, Portsmouth Plaza and Uptown Parking Corporations. Attorneys were originally hired to assist in establishing the non-profit parking corporations and to assist in issuing the bonds used to finance the construction of the garages. Thereafter, because of their experience with the garages, the City's personnel and the non-profit corporations, the non-profit corporations continued to retain the attorneys on an hourly basis to provide both legal and non-legal services.

In FY 1991-92<sup>1</sup>, the five non-profit parking corporations spent \$399,239 for 2,970 hours of legal services. This 2,970 hours equals approximately 1.7 FTE<sup>2</sup>. The annual salary and fringe benefits of a 1.7 FTE 8174 City Attorney are approximately \$121,962, or \$277,277 less than the \$399,239 spent on the same level of legal services provided to the non-profit parking corporations. These legal fees constitute approximately 5.5 percent of the total expenses for the non-profit garages<sup>3</sup>. However, \$148,200 of the \$399,239 in legal fees were for services related to the expansion of the Fifth and Mission and Ellis-O'Farrell Garages and thus represent one-time costs. Excluding expansion related legal services, legal fees were \$251,039 in FY 1991-92, or 3.5 percent of total non-profit garage expenses of \$7,223,023.

### **Description of Legal Services**

Based on discussions with the corporate board members and the attorneys, as well as a review of the attorneys' invoices, the following is a general breakdown of the types of services provided by the attorneys to the non-profit parking corporations:

- Legal Services (services requiring a law degree and license to practice law in the State of California) including drafting leases for retail space, representing the corporation in litigation cases, and providing bond related advice.
- Attendance at Parking and Traffic Commission meetings.
- Attendance at non-profit corporation board meetings and recording of minutes.
- Review of correspondence sent to the corporation.

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<sup>1</sup>Based on the fiscal years of the non-profit parking corporations which are May 1st through April 30th, except the Western Addition Parking Corporation which is April 1 through March 31.

<sup>2</sup> Based on 1,800 hours which is the amount of hours worked by the average City employee minus holidays, vacation and sick leave.

<sup>3</sup> Total expenses for the non-profit garages from FY 1991-92 were \$7,223,023 as reported in the FY 1991-92 audited income statements.

- Sending correspondence on behalf of the corporation.
- Meetings and telephone conversations with City officials about garage operations, such as rate changes and garage budgets.
- Meetings and telephone conversations with board members and garage managers.
- Visits to garages to ensure garages are clean and well managed.
- Development and management of capital projects, including expenditure projections.
- Development of garage expenses and revenue projections.
- Management of retail property.
- Review and approval of annual budgets and monthly expenses.

The attorneys' invoices do not always indicate whether the service provided was legal or managerial. For example, the attorneys' invoices did not always include the reason for a telephone call or a meeting. Nevertheless, based on a detailed review of the invoices and discussions with the attorneys and corporate board members and given the largely non-legal nature of the parking garage business, we conservatively estimate that the two attorneys spend one quarter of their billable hours on "pure" legal services (those services that require a law degree and a license to practice law in the State of California). In addition, the Attorney in the City Attorney's Office that provides legal services to the 11 direct operation garages (such as drafting retail space leases and garage operator management contracts and answering questions pertaining to those leases and contracts) conservatively estimates that those activities consume up to 25 percent of his time or 450 hours annually for 11 garages. In other words, the two attorneys are primarily providing managerial and administrative services and, when taking minutes at corporate board meetings, clerical services to the non-profit parking corporations.

As discussed in Section 5 of this report, certain management and oversight services need to be performed for the non-profit garages. If the non-profit parking corporation did not exist, the City would assume most of those responsibilities. For example, without the non-profit parking corporations, the Department of Real Estate would manage retail property at the Sutter-Stockton, Ellis-O'Farrell Garages and, after the expansion project, the Fifth and Mission Garage. However, the City would not use an attorney to provide garage management and oversight services. This section evaluates the non-profit parking corporations' use of attorneys, the cost of their services and suggests alternative means to provide those services less expensively.

## **Hourly Rates**

The two attorneys charge the same hourly rate for legal and non-legal services. According to the attorney for the Ellis-O'Farrell and Western Addition Parking Corporations, the \$125 hourly rate he charges the non-profit parking corporations is lower than his standard hourly rate for legal services of approximately \$200. The attorney for Ellis-O'Farrell and Western Addition Parking Corporations explains that the \$75 hourly rate difference reflects the largely non-legal nature of his services to the non-profit parking corporations. The second attorney representing the Downtown, Uptown and Portsmouth Plaza Parking Corporations charges \$125 to \$150 per hour.

In comparison, the estimated hourly rate for the corporate manager (see below) shared by the Uptown and Downtown Parking Corporations is approximately \$38, based on salary and fringe benefits and excluding overhead costs, which is \$87 less than the attorney for Ellis-O'Farrell and Western Addition Parking Corporations' hourly rate and up to \$112 less than the attorney for Downtown, Uptown and Portsmouth Plaza Parking Corporations' hourly rate. As discussed below, the corporate manager and the two attorneys provide some similar services. Thus, while the attorney's hourly rates may be less than his standard for legal services, they are significantly higher than the standard for garage management. In fact the attorneys' hourly rates range from approximately 229 percent to 295 percent more than the corporate manager hired by the non-profit corporation.

## **Corporate Management Services**

In May of 1991, upon retirement of the Uptown Corporation Manager, two of the non-profits, Downtown Parking Corporation and Uptown Parking Corporation, jointly hired one corporate manager to work half-time at each garage at an annual salary of \$55,000. The corporate manager's responsibilities include managing the day to day operations of the two garages as well as acting as a liaison between the garage managers and the corporate board members, and between the corporate board members and City officials. According to the President of the Uptown Parking Corporation Board, the attorney supervises the corporate manager. The Downtown Parking Corporation has recently defined the role of the corporate manager to management duties and the attorney to legal services. At the Downtown Parking Corporation, neither the attorney nor the corporate manager have been assigned supervisory responsibilities over the other.

As mentioned above, the corporate manager provides some similar services as the two attorneys at \$87 to \$112 less than the attorneys' hourly rates. The corporate manager and the attorneys monitor the performance of the garage operators, attend Corporate Board meetings, carry out the wishes of the corporate boards, prepare annual budgets for the Department of Parking and Traffic and facilitate annual audits. The primary differences between the attorneys and the corporate manager include legal services, the level and type of compensation and the years of experience.

The corporate board members interviewed for this study report that while the attorneys do not provide legal services exclusively, because of their knowledge and experience, their management services are extremely useful. The corporate boards have changed, but the institutional knowledge has remained with the attorney. Although experience is certainly of value, history and individual personalities should not dictate staffing and compensation decisions. Many of the job duties performed by the attorneys would be more appropriately - and more inexpensively - performed by a corporate manager.

The non-profit corporations should restrict their attorneys to performing legal services exclusively. To do this, the non-profit corporations should enter into written agreements with their attorneys that limit the attorneys' billable services to strictly legal services. These legal services should be clearly defined and understood by the attorneys and the non-profit corporation boards. Assuming that the attorneys spend 25 percent of their current billable hours providing legal services, the regular legal expenses for the six non-profit corporations in FY 1991-92 would have been approximately \$62,760. However, the Civic Plaza Parking Corporation is being dissolved and, in Section 3 of this report, we recommend dissolving the Portsmouth Plaza Parking Corporation. Subtracting the legal expenses incurred by the Civic Plaza Garage and Portsmouth Plaza Parking Corporations and overbilling charges (discussed later in this section), in FY 1991-92 the total legal expenses were \$198,188. Again, assuming actual legal services comprise up to 25 percent of the attorneys' billable hours, the legal expenses for FY 1991-92 would have been approximately \$49,546.

The current corporate manager of the Uptown and Downtown Parking Corporations could assume responsibility for all four non-profit parking corporations. Once the expansion project at the Fifth and Mission Garage is complete, the corporate manager's responsibilities will be considerably less than they are now. In addition, if the non-profit garages require operators to cover expenses as recommended in Section 2, the budget development and monitoring duties of the corporate manager will be eliminated.

An administrative assistant could be hired to assist the corporate manager with all four garages at an approximate annual cost of \$37,500 for salary and fringe benefits. Each non-profit parking corporation should pay for the cost of the corporate manager and administrative assistant proportionately depending on the size and use of each garage. Based on the percentage of the total actual 1991-92 expenses of the four garages, Table 4.1 includes estimates of the cost to each non-profit parking corporation of the corporate manager and an administrative assistant.

**Table 4.1**

**Prorated Costs of Shared Corporate Manager and Administrative Assistant  
(Based on FY 1991-92 actual expenses)**

Estimated Annual Cost of Salary and Fringe Benefits	
of Corporate Manager	\$68,750*
of Administrative Assistant	<u>37,500</u>
Total Cost	\$106,250

\* Approximately \$38.00 per hour based on 1,800 annual hours.

<u>Non-profit Parking Corporation</u>	<u>FY 1991-92 Expenses</u>	<u>Percent of Total</u>	<u>Approximate Share of Mgr. &amp; Admin. Asst. Salaries</u>
Downtown	\$1,457,002	25.3%	\$26,881
Ellis-O'Farrell	1,809,214	31.4	33,363
Western Addition	901,165	15.6	16,575
Uptown	<u>1,594,537</u>	<u>27.7</u>	<u>29,431</u>
Totals	\$5,761,918	100%	\$106,250

As described in Table 4.1, the total cost of salaries and fringe benefits of the corporate manager and administrative assistant would be approximately \$106,250 annually and each non-profit parking corporation would pay between \$16,575 to \$33,363 for those salaries and fringe benefits.

To jointly hire an administrative assistant (and any future corporate managers), the four non-profit parking corporations should form a joint search committee to advertise the position, interview candidates and hire the manager. One non-profit corporation should pay the corporate manager and administrative assistant's compensation and be reimbursed by the other non-profit corporations for their share of the manager's salary.

As described in Table 4.2 on the following page, each garage would save between approximately \$27,871 and \$52,123 annually by limiting the services provided by the attorneys to legal services. The total savings from restricting attorneys' services to legal services and directing a shared corporate manager and an administrative assistant to assume the remaining management responsibilities

would be approximately \$111,142<sup>4</sup> annually, or approximately 30 percent less than the Fiscal Year 1991-92 cost of \$399,239 for the two attorneys.

**Table 4.2**

**Projected Legal Services to Non-profit Parking Corporations**

<u>Corporation</u>	Total Hours Billed by Attorneys <u>1991-92</u>	Total Attorney & Mgmt. <u>Cost 1991-92</u>	Projected Legal Svc Hours <u>Required a</u>	Projected Total Attorney & Mgmt <u>Cost a</u>	Cost Savings (Increase)
Downtown <sup>b</sup>	217	\$34,057	54.25	\$8,514	\$25,543
Ellis-O'Farrell <sup>c</sup>	554	69,497	138.50	17,374	52,123
Western Addition	294	37,161	73.50	9,290	27,871
Uptown <sup>d</sup>	445	57,473	111.25	14,368	43,105
Total	1,510	\$198,188	377.50	\$49,546	\$148,642
Cost of Shared Management		<u>68,750</u>		<u>106,250</u>	<u>(37,500)</u>
Total		\$266,938		\$155,796	\$111,142

a Based on the assumption that 25% of the attorneys' time is devoted to pure legal services.

b Excludes legal expenses associated with expansion project.

c Excludes legal expenses associated with expansion project.

d Excludes overbilling expenses described below.

**Review of Attorneys Invoices**

The Controller's Office recently conducted a review of the two attorneys' invoices for the Downtown, Uptown, Portsmouth Plaza, Ellis-O'Farrell and Western Addition Parking Corporations but not the Civic Plaza Parking Corporation, from July 1, 1991 to April 30, 1993. The Controller's Office found the following:

1. The attorney for the Downtown, Portsmouth Plaza and Uptown Parking Corporations had a pattern of charging two or more of the corporations he represented for apparently the same services or "double billing" the corporations. The Controller estimates the attorney's double billing practice from July 1, 1991 through April 30, 1993 amounted to \$66,096.30 for 22 months or approximately \$36,053 annually.

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<sup>4</sup>According to the attorney for the Ellis-O'Farrell Parking Corporation, the total hours he billed that corporation in FY 1991-92 were approximately 200 hours greater than the hours he normally charges in an average year. This attorney advises that the 200 hour difference reflects additional services that were associated with the expansion project. As such, the actual savings could be less than the projected \$111,142.

2. The attorney for the Downtown, Portsmouth Plaza and Uptown Parking Corporations billed each corporation he represents for attending Parking and Traffic Commission meetings, and the total hours billed exceeded the actual duration of the meetings.
3. The Controller's Office found that the attorney for the Ellis-O'Farrell and Western Addition Parking Corporations did not double bill his clients.
4. The Controller's Office concluded that the non-profit corporations should enter into written agreements specifying the services to be provided, rates and the procedures for allocating charges when attorneys represent more than one corporation in a single activity.

The Civic Plaza Parking Corporation was apparently excluded from the Controller's analysis because it is currently being dissolved. However, during FY 1991-92, the attorney for the Civic Plaza Parking Corporation received \$9,472 for services provided to that Corporation. As part of our management audit of the City's garages, we also reviewed the attorney's invoices, but we included the Civic Plaza Parking Corporation and the San Francisco Social Services Corporation<sup>5</sup> and we limited our review to the garages' fiscal year 1991-92 or from May 1, 1991 through April 30, 1992.

We also found that the attorney for the Downtown, Portsmouth Plaza and Uptown Parking Corporations often charged two or more of his non-profit parking corporation clients for providing one service. For example, he routinely charged each of his four non-profit parking corporations two hours for attending a two hour Parking and Traffic Commission meeting, giving himself an effective hourly rate of \$550 for attending a public meeting (two corporations are charged at the hourly rate of \$125 and the other two at the hourly rate of \$150). On August 20, 1991, The attorney for Downtown, Uptown and Portsmouth Plaza Parking Corporations charged a total of 29.83 hours to non-profit garages and to the San Francisco Social Services Corporation. 19.32 hours of these 29.83 hours were for 4.83 hours of work that he equally charged to his four non-profit parking corporation clients, again resulting in an effective hourly rate of \$550. Because we included the Civic Plaza Parking Corporation and the San Francisco Social Services Corporation in our review of the attorneys' invoices, we estimate that the total cost of the attorney's multiple billings in FY 1991-92 was \$37,562 or approximately \$1,509 more than the \$36,053 estimate of the Controller's Offices. \$19,923 of the \$37,562 is the additional cost of these multiple billings. In other words, the attorney should have billed the non-profit parking corporations approximately \$17,639 for shared services instead of \$37,562.

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<sup>5</sup> The attorney who represents the Downtown, Uptown, Portsmouth Plaza and, previously, the Civic Plaza Parking Corporations also represents the San Francisco Social Services Corporation. The San Francisco Social Services Corporation is a non-profit corporation that the City established to issue bonds to construct the 170 Otis Street Social Services building.

According to the California State Bar Association, without an agreement specifically preventing an attorney from doing so, an attorney can charge more than one client for the same work, if that work benefits all of the clients being charged. None of the non-profit corporations have such an agreement with their attorneys. While the attorney did not act illegally or unethically according to the Bar Association, he did profit unjustifiably from the multiple billings at a cost to the City. These multiple billings are a cost to the City, because: (1) the garages are owned by the City; (2) some of the non-profit corporations pay a percentage of net revenues to the City in exchange for managing the garages; and (3) net revenues are reduced by increased attorney's fees. The added cost to the City of these multiple billings is approximately \$412.50<sup>6</sup> per hour and approximately \$19,923 annually.

The Treasurers of the non-profit parking corporations and the Controller's Office approved all of the legal invoices we reviewed for this management audit. The Treasurers would have been unaware of multiple billings, but the Controller's Office received all of the invoices and should have been aware of the multiple billing practices at the time such billings were submitted for approval and should have proposed corrective action. In fact, the Controller's Office became aware of the multiple billings and other billing irregularities in June of 1993, after several years of reviewing the invoices and not identifying any irregularities. The Controller's Office advised the Budget Analyst that the attorneys were notified in June of 1993 that further duplicative billings would not be approved.

The attorney for the Downtown, Civic Plaza, Portsmouth Plaza and Uptown Parking Corporations essentially cost the City \$19,923 in FY 1991-92 for his multiple billing practices.

To legally ensure the attorneys do not multiple bill the non-profit parking corporations, the non-profits should enter into written agreements with their attorneys that prohibit multiple billings. In addition, the attorney for the Downtown, Civic Plaza, Portsmouth Plaza and Uptown Parking Corporations should refund the non-profit corporation for the amount of the overcharges for the multiple billings.

## **CONCLUSION**

The non-profit parking corporations retain two attorneys to provide legal and corporate management services. In Fiscal Year 1991-92, these services were provided at a cost of approximately \$399,239. Based on a review of invoices and discussions with the two attorneys and non-profit parking corporation board members, we conservatively estimate that the attorneys spend approximately 25 percent of their billable hours providing legal services and the remaining 75 percent on management, administrative and clerical responsibilities. The corporate manager for the Uptown and Downtown Parking Corporations provides similar services as the two attorneys at \$87 to \$112 an hour less than the attorneys' hourly rates. The non-profit parking corporations could reduce their annual expenses by

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<sup>6</sup>Based on the average of the total amount billed of \$550 or 4/\$550 = \$137.50. \$137.50 x 3 = \$412.50.

approximately \$111,142 by restricting the attorneys to performing legal services exclusively and having a corporate manager and an administrative assistant assume the management responsibilities of the attorneys for all remaining non-profit corporations.

A review of attorney invoices indicates that the attorney for the Downtown, Civic Plaza, Portsmouth Plaza and Uptown Parking Corporations has often multiple-billed his non-profit parking corporation clients, giving himself an effective hourly rate of \$550 for such activities as attending public meetings, reviewing public meeting agendas, and making telephone calls. The total estimated cost of these multiple billing practices in FY 1991-92 was \$19,923. The Controller's Office should have been aware of such practices. The attorney for the Ellis-O'Farrell and Western Addition Parking Corporations did not double bill his clients.

## **RECOMMENDATIONS**

All of the Non-profit Parking Corporations should:

- 4.1 Jointly hire a corporate manager and an administrative assistant to perform the management functions now being performed by an attorney.
- 4.2 Establish a joint search committee to advertise the administrative assistant position, interview candidates and hire the administrative assistant.
- 4.3 Enter into written agreements with their attorneys that restrict the attorneys' services to legal services only. Such agreements should specifically define the legal services to be provided and how those services should be presented in the attorneys' invoices.
- 4.4 Enter into agreements with their attorneys that prohibit the attorneys from multiple billings for the same services.

The Attorney for Civic Plaza, Downtown, Portsmouth Plaza, and Uptown Parking Corporations should immediately:

- 4.5 Pay back the Civic Plaza, Downtown, Portsmouth Plaza, and Uptown Parking Corporations for the overcharges resulting from multiple billings.

## **COSTS/BENEFITS**

By restricting the two attorneys to providing legal services and hiring a corporate manager and administrative assistant to provide management services, the non-profit corporations could reduce their expenses by approximately \$111,142 annually. These savings could be used to 1) reduce the non-profit parking corporations' debt, 2) make capital improvements or 3) increase the net revenues remitted to the City. A refund of the overcharges by the Attorney in question would effectively result in \$19,923 from FY 1991-92 of additional revenues to the City.

## **SECTION 5: CONTINUATION OF NON-PROFIT PARKING CORPORATION LEASES WITH THE CITY**

- THE CITY HAS LEASES WITH EACH OF THE FIVE NON-PROFITS THAT EXPIRE BETWEEN THE YEARS 2007 AND 2015. AT THAT TIME THE CITY WILL HAVE THE OPPORTUNITY TO DECIDE WHETHER TO EXTEND THE NON-PROFITS' CONTROL OF THE GARAGES, OR TO DISBAND THE CORPORATIONS AND TAKE RESPONSIBILITY DIRECTLY.
- THE NON-PROFIT CORPORATION BOARDS OF DIRECTORS DO NOT INCLUDE REPRESENTATIVES OUTSIDE OF THE SURROUNDING BUSINESS COMMUNITY. INCLUDING SUCH REPRESENTATION WOULD ENSURE THE CITY'S FISCAL INTERESTS ARE REFLECTED IN BOARD DECISIONS.
- A COMPARISON OF THE NON-PROFIT CORPORATE EXPENSES TO THE ESTIMATED COSTS OF PROVIDING SIMILAR SERVICES WITH CITY STAFF INDICATES THAT THE CITY COULD PROVIDE THE SERVICES AT APPROXIMATELY \$95,027 LESS THAN THE NON-PROFITS. HOWEVER, IF THE NON-PROFITS IMPLEMENT THE RECOMMENDATIONS INCLUDED IN SECTIONS 2 AND 4 OF THIS REPORT, THEY COULD PROVIDE THOSE SERVICES FOR APPROXIMATELY \$16,115 LESS THAN THE CITY. IN ADDITION, THERE ARE UNQUANTIFIABLE BENEFITS ASSOCIATED WITH THE NON-PROFIT PARKING CORPORATIONS THAT REPRESENT A REAL VALUE TO THE CITY, INCLUDING THE VOLUNTARY TIME AND BUSINESS EXPERTISE OF THE NON-PROFIT BOARDS OF DIRECTORS.
- SINCE THERE APPEARS TO BE NO CLEAR COST ADVANTAGE TO DISSOLVING THE NON-PROFIT CORPORATIONS IF THE RECOMMENDATIONS CONTAINED IN THIS REPORT TO ACHIEVE ADDITIONAL ECONOMIES ARE IMPLEMENTED, CONTINUATION OF THE NON-PROFIT CORPORATIONS AFTER THEIR LEASES EXPIRE WOULD BE A POLICY MATTER THAT WOULD TAKE INTO CONSIDERATION THE VALUE OF SERVICES PROVIDED BY THE NON-PROFIT CORPORATIONS.

The non-profit parking corporations are legally entitled to lease their respective garages according to the terms of their indentures and their lease agreements with the City. Once their debt is retired, the non-profits can voluntarily dissolve, as did the Union Square Garage Corporation, the Golden Gateway Parking Corporation, and the Civic Plaza Parking Corporation. As current leases with the non-profits expire between the years 2007 and 2015, the City will have the opportunity to decide whether to extend the non-profits' control of the garages, or to take on this responsibility directly. Prior to that time, the City can, and should, terminate any non-profit leases if the non-profit corporation is significantly in default of lease provisions.

To understand whether it is in the City's best interests to extend the non-profits' control of the garages when the current leases with the non-profits expire, this section examines the non-profit corporation boards, the services provided by the non-profit corporations and their associated costs. In this analysis, we assume that the direct costs of operating a garage, such as attendant staffing, accounting services, security services, etc., would be incurred regardless of whether the garage was leased by a non-profit corporation or managed through a direct contract with a garage operator. We focus, instead, on strictly corporate expenses, and on services provided by the corporations as opposed to the garage operators. To determine whether the non-profits provide services cost effectively, we compared the non-profit corporate expenses to the estimated costs of providing similar services with City staff.

### **Non-Profit Parking Corporation Boards**

The non-profit corporations are led by Boards of Directors. These boards are composed of businesspersons from the surrounding financial and retail communities which the garages serve. Members do not receive compensation for attending board meetings or for conducting business on behalf of the non-profit parking corporation. None of the boards have term limits and the boards select new directors through recommendations from existing directors.

Although the non-profit boards provide a common base level of oversight as required in their leases with the City, some of the non-profit boards of directors are more actively involved in managing their garages than others. For example, although the Ellis-O'Farrell Parking Corporation Board of Directors only meets quarterly, most of the Board's work is conducted by five subcommittees -- the Expansion Committee, the Operator Review Committee, the Lease Committee, the Marketing Committee and the Rate Committee -- that meet as frequently as several times a week to once a month. In addition, two of the non-profit corporations, Ellis-O'Farrell and Uptown Parking Corporations, also lease and manage retail property.<sup>1</sup> Further, the non-profit corporations develop and manage major

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<sup>1</sup>The Fifth and Mission Street Garage will have retail space to lease after the renovation project is completed.

structural renovation work such as the renovation of the Ellis-O'Farrell and Fifth and Mission Garages. In contrast, the Portsmouth Plaza Parking Corporation meets every two months and does not have working subcommittees.

The boards do not include representatives outside of the surrounding business community. The directors of the non-profit parking corporation boards primarily represent the interests of the surrounding business community in which the garage operates. Because of their interest in the utility of the garage as an asset to commerce, the directors can generally be relied upon to uphold a high standard of service. However, they may not consider the City's fiscal interests when making decisions. The boards may not weigh lost revenues to the City when making expenditure decisions. For this reason, the non-profit parking corporation boards should have at least one director on each board representing the City's interests. The Parking and Traffic Commission could provide the non-profit boards with a list of potential candidates from which to select a member who would represent the City's interests.

### Non-Profit Parking Corporations' Goals and Responsibilities

In general, the goals of these corporations are to provide affordable, clean, safe, and accessible parking to shoppers and other consumers coming to their district. The non-profit corporations try to accomplish these goals by:

- Establishing garage operating policies regarding: hours of operation, percentages of monthly and transient parking spaces, marketing plans to attract parkers and retail tenants (in those garages with retail lease space), capital improvements, automation upgrades, etc. For example, the Downtown Parking Corporation recently established an advanced payment system for the Fifth and Mission Street Garage that requires parkers to pay in advance at a cashiers window rather than pay while exiting the garage. The Portsmouth Plaza Parking Corporation established a policy to keep the Portsmouth Square Garage open 24 hours to allow the garage operator to clean the garage during slow hours. All of these policies require approval of the Parking and Traffic Commission and the Board of Supervisors.
- Overseeing budget development and approval; overseeing expenditures and revenues. As explained in Section 2, the non-profit garage operator contracts provide that the expenses of the operator will be reimbursed. Therefore, the non-profit corporations must submit budgets annually to the Controller's Office for review and approval and submit copies to the Parking and Traffic Commission and the Trustee. The board of directors of each corporation approves the budget before its submittal to the Controller's Office. In some cases, such as the Fifth and Mission Garage, the Board of Directors and the corporate manager are involved in the development of the budget. In other cases, such as Portsmouth Square Garage, the operator develops the garage budget independently and submits it to the Board of Directors for review and approval. Monthly expenses must also be submitted to the Treasurer of each board for approval, and some boards require the garage operator to request

approval for expenses that are expected to exceed budgeted amounts. The Controller provides final approval of monthly expenses.<sup>2</sup>

However, the garage operator agreements need not stipulate that garage expenses are reimbursed. Instead, as recommended in Section 2, the City could competitively bid fixed rate garage operator contracts, where the operator is responsible for expenses. This would eliminate the budget development and approval process entirely. Instead, the non-profit corporations would have to manage a bid process every five years.

- Overseeing day-to-day operations. All of the non-profit corporations provide some level of fiscal and management oversight of the garage operators. The extent to which the non-profit corporation provides such oversight varies. The non-profit directors, the two attorneys and the corporate manager report that they oversee their garage operations on a regular daily or weekly basis through garage visits. If they detect problems, they notify the operator and request that such problems be corrected. For example, if the restrooms are consistently dirty, a board director will notify the garage operator and request that they be cleaned more frequently. Additional oversight includes approving maintenance expenses that exceed budgeted amounts and the annual financial audits.
- Developing and overseeing capital improvement projects and major renovations. All of the non-profit garages have had a capital improvement project or a major renovation since their original construction. Such capital improvement projects range from replacing elevators, such as the elevator replacement project at Portsmouth Square, to a major renovation of the garage such as the renovation projects at the Ellis-O'Farrell and Fifth and Mission Garages. The source of funding for these projects depends on the cost. For smaller projects, some of the garages use retained revenues to fund capital improvement projects. To finance the larger renovation projects, the non-profits may issue bonds. The non-profit boards and the non-profit staff propose, develop and oversee the capital improvement projects at their garages and the non-profit boards provide final approval.

However, all capital projects must also be approved by the Parking and Traffic Commission. Because the non-profit garages are not directly managed by the City, the non-profit parking corporations are not required to: 1) follow the City's construction contract bidding procedures that require departments to select the lowest qualified bidder; 2) follow the City's subcontracting procedures; or 3) use the Department of Public Works (DPW) architectural or construction management services. However, the non-profit corporations have voluntarily complied with requirements of the Human Rights Commission (HRC). Each non-profit parking corporation has its own contracting procedures. For example, the Downtown Parking Corporation selected architects, engineers and contractors through a Request For Qualifications

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<sup>2</sup>See Section 2 for a more detailed discussion of the budget process.

(RFQ) procedure for the Fifth and Mission Garage renovation project. As a result, the non-profit parking corporations have more flexibility than City departments to select architects, construction managers and contractors.

- Negotiating and managing retail space leases. The Ellis-O'Farrell Garage has four tenants that generates \$472,896 in revenue annually and Sutter-Stockton Garage has 15 tenants in street level retail spaces that generates \$873,333 in revenue annually for a total of \$1,346,229 in revenue. All of the retail space at these two garages has been rented. The renovations of the Fifth and Mission Street Garage will result in the addition of one to five retail spaces. The attorneys for these two parking corporations manage the retail property, including lease negotiations.

Some of these responsibilities are mandated through the City's lease, such as approving annual budgets and monthly disbursements, while other services are voluntary, such as establishing policies for garage operation.

#### Costs of Services Provided by Non-Profit Corporations

Some of the services detailed above are provided on a voluntary basis by non-profit board members. Most, however, are provided by the corporations' legal counsel and corporate manager. As described in Table 5.1 on the following page, in FY 1991-92 the non-profit parking corporations' costs totaled \$32,899, excluding the non-recurring legal expenses associated with the expansion of the Ellis-O'Farrell and the Fifth and Mission Street Garages and excluding double billed legal expenses at the Downtown and Uptown Parking Corporations.<sup>3</sup>

We have made several recommendations in Sections 2 and 4 to improve the operations of the non-profit garages and reduce their total expenses. These include converting the existing operator contracts to management agreements under which the operator is responsible for expenses which eliminates the annual budget process and monthly expense approvals; confining legal counsel to providing legal services, reducing their expenses to 25% of the current level; and making the corporate manager an employee of all four remaining non-profits, with an administrative assistant. In Section 3 we also recommend that the Portsmouth Plaza Parking Corporation be dissolved for default of its lease. The second column in Table 5.1 shows an estimate of non-profit corporation expenses after implementation of these recommendations. As shown in this table, total annual expenses would decline by approximately \$147,103.

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<sup>3</sup>The legal costs of the Civic Plaza Parking Corporation are not included in this calculation, because the Civic Plaza Parking Corporation is being dissolved. The services performed by this Corporation must already be assumed by the City, and so are irrelevant to a comparison of current non-profit costs with the expenses that the City would incur to provide their services directly.

**Table 5.1**

**FY 1991-92 Expenses Associated with Non-Profit Parking Corporations  
Actual Historical & Estimated After Implementation of Recommendations  
In Sections 2, 3 and 4**

<u>Legal Expenses<sup>4</sup></u>	<u>FY 1991-92 Actual Expenses</u>	<u>Estimated After Implementation of Budget Analyst's Recommendations</u>	<u>Cost Savings (Increase)</u>
Ellis O'Farrell Parking Corporation	\$69,497	\$17,374	\$52,123
Western Addition Parking Corporation	37,161	9,290	27,871
Downtown Parking Corporation <sup>a</sup>	34,057	8,514	25,543
Uptown Parking Corporation <sup>a</sup>	57,473	14,368	43,105
Cost of Shared Management	<u>68,750</u>	<u>106,250</u>	<u>(37,500)</u>
Subtotals	\$266,938	\$155,796	\$111,142
Portsmouth Plaza Parking Corporation	<u>35,961</u>	<u>0</u>	<u>35,961</u>
Total Cost of Non-Profit Parking Corporations	\$302,899	\$155,796	\$147,103

<sup>a</sup> Net of double billed legal expenses

#### **ESTIMATED COST FOR CITY TO PROVIDE SERVICES OF NON-PROFITS**

##### **Budget Development and Approval/Contract Administration:**

If the non-profit corporations were not available to assist in garage budget development or approve annual budgets and monthly expenses, the Department of Parking and Traffic would most likely assume the responsibility. However, if our recommendations included in Section 2 to competitively bid the garage operator contracts and form fixed rate contracts where the operator directly pays the garage expenses is implemented, neither the Department of Parking and Traffic nor the Controller's Office would be required to review and approve annual budgets or monthly expenditures.

Based on the City's current operator selection process, the DPT, the City Attorney's Office and the Department of Real Estate would have responsibility for selecting new garage operators. Based on the City's current garage operator selection process, the DPT would be involved in developing bid specifications for garage operators and the Department of Real Estate would have primary responsibility for developing and issuing the bids, and selecting the operator, with the Parking and Traffic Commission's approval. The City Attorney would have

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<sup>4</sup>Excludes expansion related legal expenses.

responsibility for drafting operator agreements. The operator contracts would be rebid every five years, assuming that the contractor performs satisfactorily.

Based on discussions with the Department of Real Estate, the competitive bid process to select a garage operator requires approximately 40 hours. DPT was unable to provide an estimate of the amount of time required of DPT staff to participate in the bid development and operator selection process. Thus, if the DPT and the Department of Real Estate were responsible for selecting garage operators at the four non-profit garages, a minimum of approximately 160 hours<sup>5</sup> of additional staff time would be required for the Department of Real Estate in addition to an undetermined number of hours for DPT. At \$95 per hour for a Senior Real Property Manager, the estimated total cost to bid a garage operator contract for the Department of Real Estate would be \$3,800 per garage and \$15,200 for all four garages. Further, the City Attorney's Office would provide approximately seven hours to draft each garage operator agreement. At \$80 per hour for a City Attorney, the estimated total cost per agreement would be \$560 and \$2,240 for all four garages. Because the bids would go out approximately every five years, it would be reasonable to expect the City to bid only one garage in a typical year.

### Garage Operator Oversight

If the non-profit corporations did not exist, the Department of Parking and Traffic would provide operator oversight of the four non-profit garages. To provide a comparable level of oversight to what the non-profits provide, according to the Director of the Off-Street Parking Division, the Department of Parking and Traffic would need to conduct weekly inspections of each garage. Such inspections would include cleanliness, the operation of elevators, number of open lanes and the adequacy of signage. The Department would need to conduct more thorough inspections of each garage on a monthly or bi-monthly basis to ensure there are no major structural problems with the garage that require maintenance such as defective plumbing or broken gates etc.

Because the Off-Street Parking Division currently only has one staff member, the Division would be unable to absorb these additional duties using existing staff. According to the Director of the Off-Street Parking Division, one additional half-time staff person would need to be hired to conduct oversight of the garages that are currently non-profit. According to the Director of the Off-Street Parking Division, that position would most likely be a .5 FTE Senior Administrative Analyst, at an annual cost of between \$29,934 and \$36,377 for salary and benefits.

### Capital Improvement Projects

Because the non-profit parking corporations do not follow the City's bidding procedures, it is difficult to estimate what the City's costs would have been to manage construction projects at the non-profit garages. However, the Director of DPT's Off-Street Parking Division reports that he spends approximately 60 percent

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<sup>5</sup>40 hours per bid development multiplied by four garages.

of his time on new garage development projects such as the North Beach garage project or the renovation of the St. Mary's Square Garage. Based on this estimate and the salary and fringe benefit costs of the Director of the Off-Street Parking Division at \$80,650, DPT spends approximately \$48,390 annually on developing and overseeing garage related capital projects.

According to the Financial Manager of the Department of Public Works (DPW's) Bureau of Construction Management, because the non-profits do not always select the lowest bid for construction contractors, the non-profit parking corporations most likely spend more for direct construction services and spend less on construction management and oversight than the City typically does. Selecting the lowest bidder requires DPW to provide close construction management and oversight to ensure the contractor is completing the job according to specifications. The non-profit corporations can negotiate contracts with construction companies that would provide the companies with sufficient resources whereby "cutting corners" would not be a problem. Thus, the non-profit corporations may spend less than the City on construction management and oversight but may be spending more on construction contracts. In sum, the non-profits could spend more or less than the City on capital improvement projects depending on the amount of the construction contract.

### Retail Space Lease and Management

If the City managed the retail space properties at Ellis-O'Farrell, Sutter-Stockton Garages and the Fifth and Mission Garages<sup>6</sup>, based on the City's current retail space management practice, the Department of Real Estate and the City Attorney would assume the responsibility. According to the Department of Real Estate, one Full Time Equivalent (FTE) Real Property Officer would be required to manage the property and negotiate leases, at an annual cost of between \$58,725 to \$71,384 for salary and fringe benefits. The City Attorney reports that, at an average of 7.5 hours to draft each lease at \$80 per hour, each lease would cost approximately \$600. Thus, the 19 existing leases would cost the City Attorney \$11,400 to draft.<sup>7</sup> The total amount required to lease and manage the garage retail space would therefore be \$70,125 to \$82,784.

### Summary of the City's Costs to Assume the Responsibilities of the Non-Profit Parking Corporations

The following table illustrates the estimated total costs the City would assume if the non-profit parking corporations did not manage the non-profit garages:

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<sup>6</sup>The Fifth and Mission Garage renovation project is expected to result in adding between one to five retail spaces.

<sup>7</sup>The annual amount would depend on the turnover of the retail space.

**Table 5.2**

**Summary of the City's Costs to Assume the Responsibilities of the Non-Profit Parking Corporations**

<u>City Costs</u>		
<u>City Department</u>	<u>Responsibility</u>	<u>Estimated City Costs</u>
Parking and Traffic	Garage Operator Selection and Garage Oversight	\$36,377
Parking and Traffic	Capital Improvement Projects	48,390
Real Estate	Retail Space Management	71,384
Real Estate	Garage Operator Selection	3,800
City Attorney	Garage Operator Selection	560
City Attorney	Retail Property Leases	<u>11,400</u>
Total City Costs		\$171,911
<u>Non-Profit Costs</u>		
Total FY 1991-92 Actual Cost for Non-Profit Services (Net of Civic Plaza and Portsmouth Plaza Parking Corporations and double billed legal expenses at Uptown and Downtown Parking Corps.) <sup>8</sup>		\$266,938
Difference		(\$95,027)
Total FY 1991-92 Estimated Cost for Non-Profit Services if Recommendations in Sections 2 and 4 are Implemented		<u>155,796</u>
<b>City Costs Minus Projected Non-Profit Costs</b>		<b>\$16,115</b>

As shown in Table 5.2, without implementing the recommendations in this report, the City could provide the services provided by the non-profit parking corporations at approximately \$95,027 less than the non-profits. The difference reflects the costs associated with using attorneys to conduct non-profit corporation business such as taking minutes at board meetings, attending committee meetings, and regular contact with board directors, that the City would not incur if it managed the non-profit garages.

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<sup>8</sup>Civic Plaza Parking Corporation is being dissolved and we recommend in Section 3 that the City exercise its right to dissolve the Portsmouth Plaza Parking Corporation because of late payments to the City. Thus, we excluded these two non-profit corporations from this analysis.

The recommendations included in Sections 2 and 4 of this report would reform the way the non-profit corporations do business and would therefore improve their efficiency. As the Table 5.2 shows, after implementation, the non-profit corporations could provide their services at a slightly lower cost than what the City would incur to replace those services using in-house staff.

### Unquantifiable Benefits of the Non-Profit Parking Corporations

The above analysis excludes the unquantifiable benefits that we believe are associated with the services provided by the non-profit parking corporations to the City. The non-profit parking corporations represent an exchange of goodwill between the business community and the City. The business community, through the non-profit boards, volunteers its time and experience to manage the City-owned garages with the intent to provide affordable and accessible parking. The City, in turn, recognizes the value of the business community to the City through its initial authorization to build the garages and form the non-profit corporations to manage them.

In addition, the quality of management services provided by the non-profit corporations to the garages is an intangible, but valuable, benefit. Non-profit board directors fear that while the Department of Real Estate would be capable of leasing and managing retail spaces at the Ellis-O'Farrell and Sutter-Stockton Garages, it may not have the same level of commitment to retain retail tenants or to ensure that retail space does not remain vacant for very long as the non-profit boards. The business leaders serving as board directors have a direct interest in retaining good retail tenants because empty retail space invites vandalism and brings down the overall appearance of prosperity to the retail and financial district. Their businesses could be adversely affected by empty retail space. The Department of Real Estate would share the same concerns as the boards of directors, but the non-profit board directors question whether or not the Department of Real Estate has the same level of personal interest.

The non-profit board directors also fear that the Department of Parking and Traffic would regularly inspect the garages, but would not have the day-to-day contact with each garage as they do. The board directors have more exposure to the garage operations than a staff member at the Department of Parking and Traffic because they work near the garage and many park their cars in the garage. The non-profits only have one garage to manage while the Off-Street Parking Division would have 15 garages to manage.

While the benefits listed above are non-quantifiable, in our judgment, they nonetheless represent some value to the City. These benefits should be considered when the City decides whether to continue leasing a garage to a non-profit parking corporation after the bonds used to finance the garage's construction expire. Thus, we would recommend that the City encourage the non-profit parking corporations to implement the recommendations in Sections 2 and 4 to reduce their expenses. Since there appears to be no clear cost advantage to dissolving the non-profit corporations if our recommended economies are achieved, continuation of the non-profit corporations after their leases expire would be a policy matter. If the non-profit

parking corporations do not implement the recommendations contained in Sections 2 and 4 of this report, the City should seek to dissolve the corporations as soon as is legally possible.

## **CONCLUSIONS**

The City has leases with each of the five non-profits that expire between the years 2007 and 2015, at which point the City will have the opportunity to decide whether to extend the non-profits' control of the garages, or to take responsibility directly.

The non-profit corporation boards of directors do not include representatives outside of the surrounding business community. Such representation would ensure the City's fiscal interests are reflected in board decisions.

A comparison of the non-profit corporate expenses to the estimated costs of providing similar services with City staff indicates that the City could provide the services at approximately \$95,027 less than the non-profits. However, if the non-profits implement the recommendations included in Sections 2 and 4 of this report, they could provide those services for approximately \$16,115 less than the City. In addition, there are unquantifiable benefits associated with the non-profit parking corporations that represent a real value to the City.

## **RECOMMENDATIONS**

The Parking and Traffic Commission should:

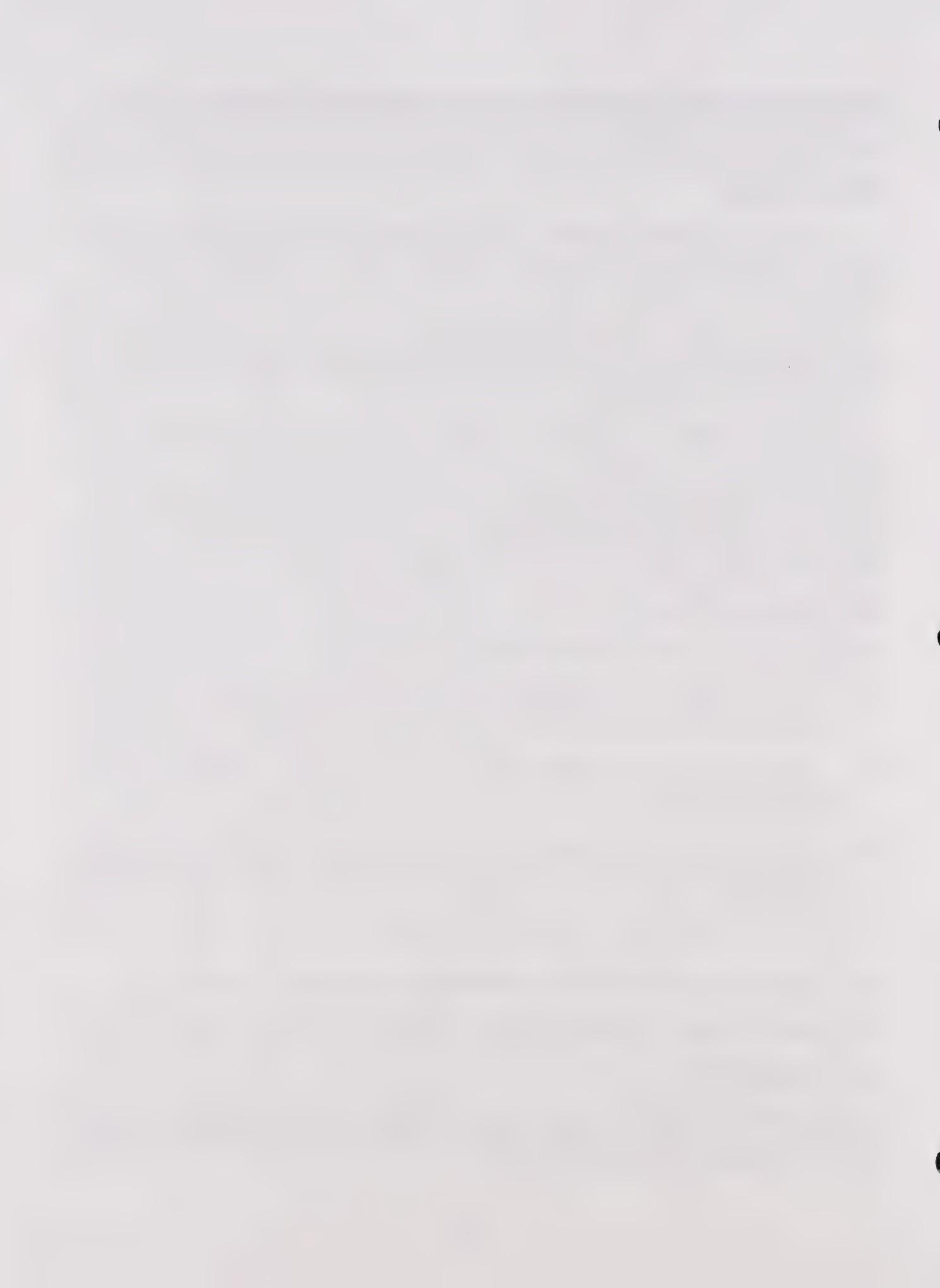
- 5.1 Request that the non-profit parking corporations implement the recommendations included in Sections 2 and 4 of this report.
- 5.2 If the non-profit parking corporations do not implement the recommendations included in Sections 2 and 4 of this report, seek to dissolve them as soon as legally possible.
- 5.3 Provide the non-profit parking corporation boards with a list of potential candidates from which to select a board director to represent the City's interests.

The Non-Profit Parking Corporation Boards should:

- 5.4 Include one director on each board representing the City's interests.
- 5.5 Implement the recommendations included in Sections 2 and 4 of this report.

## **COSTS/BENEFITS**

There would be no net costs associated with implementing these recommendations. The City should benefit by having the non-profit garages being managed in a more cost effective manner.



## **SECTION 6: PARKING RATES**

- THERE ARE SEVERAL INDICATORS THAT CITY-OWNED GARAGES COULD INCREASE OR DECREASE PARKING RATES TO MAXIMIZE REVENUES, WHILE CONTINUING TO ENCOURAGE SHORT-TERM PARKERS, AS FOLLOWS:
  - OF THE 15 CITY-OWNED GARAGES FOUR CHARGE LESS THAN \$1.00 FOR THE FIRST HOUR, WHILE THE SURROUNDING PARKING METERS ARE \$1.00 TO \$1.50 PER HOUR.
  - PORTSMOUTH SQUARE AND FIFTH AND MISSION GARAGES RECEIVE APPROXIMATELY \$2,442 AND \$1,086 RESPECTIVELY MORE REVENUE PER TRANSIENT SPACE THAN PER MONTHLY SPACE.
  - BASED ON THE HIGH USE OF TRANSIENT PARKING SPACES, HOURLY RATES COULD BE RAISED AT PORTSMOUTH SQUARE AND SUTTER-STOCKTON GARAGES.
- HOWEVER, EACH GARAGE SHOULD ANALYZE THE IMPACT ON DEMAND WHEN MAKING PARKING RATE CHANGES. SUCH AN ANALYSIS WOULD REQUIRE CHANGING PARKING RATES AND EVALUATING THE CHANGE IN TRANSIENT PARKERS ON AN EXPERIMENTAL BASIS. BECAUSE THE CITY'S RATE CHANGING PROCESS IS TIME-CONSUMING, IT DOES NOT PERMIT THE GARAGES TO REVISE HOURLY RATES QUICKLY ENOUGH TO MEASURE THE IMPACT RATE CHANGES HAVE ON DEMAND FOR TRANSIENT AND MONTHLY PARKING.
- THE PARKING AND TRAFFIC COMMISSION SHOULD REQUEST THE MAYOR AND THE BOARD OF SUPERVISORS TO PERMIT THE DPT TO ADJUST PARKING GARAGE RATES FOR 90-DAY EXPERIMENTAL TRIAL PERIODS AS NEEDED AND MEASURE THE EFFECTS ON GARAGE REVENUE AND USAGE. THE DPT SHOULD BE REQUIRED TO SEEK BOARD OF SUPERVISORS APPROVAL OF ANY PERMANENT RATE CHANGES AT THE END OF EACH 90-DAY TRIAL PERIOD.

Since 1940, the City has built 15 garages to provide parking primarily for transient parkers. As discussed in the Introduction of this report, the City built these garages to continue to attract shoppers to the City's retail and financial districts. To the extent that low parking rates encourage commercial activity, a policy of maintaining lower than market rates at City garages is consistent with the original goals of the garages.

However, the Transportation Element of the City's Master Plan includes a "Transit First" Policy which was adopted in 1973 by the Planning Commission and the Board of Supervisors. The goal of the Transit First Policy is to limit the number of commuters coming into and/or traveling around San Francisco by car. Adjusting parking rates in City-owned garages is one tool available to the City to control the flow of traffic into and within the City. The higher the rates, the fewer people will drive into traffic congested areas, encouraging individuals to use public transportation. According to the Head of the Transportation Section of the Department of City Planning, the Transit First Policy was intended to reduce the number of vehicles used to commute to work in the City. Therefore, encouraging short-term parkers through reduced parking rates does not necessarily conflict with the City's Transit First Policy.

As described in Table 6.2, the hourly rates for the first hour on City-owned garages are, on average, \$1.70 to \$3.95 less than the rates of surrounding private parking facilities. The parking rates in City-owned garages for beyond three hours, including all day parking and monthly parking, are approximately the same as those of the surrounding private garages. The below-market rates for the first three hours reflect the City's interest in attracting shoppers to the City's retail districts, while the higher long-term rates are consistent with the Transit First Policy.

The City collects substantial revenue from parking taxes, parking meters, and City-owned garages. As described in Table 6.1, in FY 1992-93, the City collected a total of \$52.3 million from parking taxes, parking meters, and City-owned garages that were deposited into various City Funds including the General Fund. The City has an interest in maximizing these parking related revenues that could be in conflict with the Transit First Policy and with the goal of keeping transient parking rates low to encourage shoppers. Maximizing parking related revenues would, in part, require the City to encourage commuters to drive into the City which would conflict with the City's Transit First policy. In addition, maximizing parking related revenues could require the City to increase its transient parking rates which would conflict with its policy to encourage shoppers to drive into the City. While keeping these divergent City policies and objectives in mind, this section will discuss the City's parking rates and the rate setting process, and propose alternatives to maximize the City's parking related revenues.

**Table 6.1**

**Sources and Distribution of Parking Related Revenue FY 1992-1993**

<u>City Fund</u>	<u>Parking Meters</u>	<u>Parking Tax</u>	<u>City-Owned Garages</u>	<u>Total Parking Revenues</u>	<u>Percent of Pkg. Revs.</u>
General Fund		\$23,950,087	\$5,845,489	\$29,795,576	56.9%
Off-Street Parking	\$9,142,327		2,270,245	11,412,572	21.8
Recreation and Park			5,157,788	5,157,788	9.9
Senior Citizens		<u>5,986,915</u>		<u>5,986,915</u>	<u>11.4</u>
Totals	\$9,142,327	\$29,937,002	\$13,273,522	\$52,352,851	100%

**Parking Rate Setting Process**

The City does not have a uniform rate for its parking garages. Instead, the City establishes rates for each garage depending on the location and use of the garage, as well as the rates of surrounding garages. Unfortunately, the rate setting process for City-owned garages does not permit the garages to alter hourly rates on an experimental basis to measure the effective demand for transient and monthly parking. If a City-owned garage (both non-profit and direct operation) wants to change its rates, it must first request the Parking and Traffic Commission for the rate increase or decrease. If the Parking and Traffic Commission approves the parking rate change, a resolution must then be submitted to the Board of Supervisors for review and approval and finally be submitted to the Mayor's Office for review and approval.

This process can take between three and four months depending on the calendars of the Parking and Traffic Commission and the Board of Supervisors. In the meantime, rates or numbers of parking spaces at nearby private garages may change. While the current parking rate approval process ensures that parking rates cannot be changed without a public hearing, the process hinders the ability of the garages to maximize revenues and to estimate the effective demand for transient and monthly parking.

As an alternative, the Mayor and the Board of Supervisors could permit the DPT to adjust rates over a 90-day trial period to allow the garages, with the Parking and Traffic Commission's guidance, approval and oversight, to determine the optimal rates and would also permit measurement of effect on the City's Transit First policy goals. At the end of a 90-day trial period, the Parking and Traffic Commission would need to request authorization from the Board of Supervisors and the Mayor to establish permanent rates. Along with that request, the DPT would report the results of the trial rate changes with an analysis of their impact on the City's revenues. The additional professional staff position which the Budget Analyst

has recommended in Section 1 should provide technical and analytical assistance to the garages in determining the optimal rates to charge.

### City Rates Versus Private Rates

Tables 6.2 and 6.3 on the following page include the rates of City-owned garages as of September 1993 and the rates of surrounding parking meters. Table 6.2 also shows the average and ranges of the rates of surrounding private garages. The parking rates of the private garages appeared in a 1993 survey conducted by Cushman and Wakefield for the City's downtown area.

As described in Table 6.2, the average one-hour rate for private garages located downtown was \$4.70 in September of 1993. Among the 15 City-owned garages, 13 had one-hour rates of \$2.00 or less or approximately \$3.00 less than the average of the private garages. For long-term parking (seven hours or more), there is little difference between the rates for private garages and those for public direct operation garages. The long-term rates at the non-profit garages, however, are significantly lower than all other garages in the area.

Comparing the rates of the City-owned garages with those of the private garages and nearby meters provides an indication of where rates at City-owned garages might be increased. For example, as shown in Tables 6.2 and 6.3, Fifth and Mission, Japan Center, Lombard and Mission Bartlett Garages charge less than \$1.00 for the first hour, while the one hour rates of surrounding meters are \$1.00 to \$1.50. Because meters are used exclusively for transient parking, they are the alternative to parking garages for transient parkers. The rate differential provides an opportunity to increase one-hour rates at those garages, while maintaining a rate advantage over surrounding private garage rates.

However, we do not know what the impact on demand would be from a rate change. Understanding whether the rates at a particular garage should be increased or decreased requires an analysis of the garage's use and the extent to which demand for parking changes as the price changes. For example, an increase in rates might result in a decrease in use at one garage with many nearby competitors, but might not have an impact on use in a neighborhood where there are no other garages. Many factors besides competition impact demand, such as types of businesses in the area, neighborhood activities, and proximity to public transportation. Until more is known about demand at these garages, we would not recommend increasing rates based solely on the rates of surrounding garages.

Table 6.2 : Comparative Rates-Financial District and Union Square Areas

	<u>Non-Profit Garages</u>					<u>Direct Operation Garages</u>			<u>Private Garages</u>		
	Sutter- Stockton Garage	Fifth & Mission Garage	Ellis- O'Farrell Garage	Union Portsmouth Square Garage	Union Square Garage	St. Mary's Garage	Golden Gateway Garage	North of Market Meters	Average of No. of Market Private Garages	Range of No. of Market Private Garages	
	1 Hour	\$1.00	\$0.75	\$1.00	\$1.00	\$2.00	\$4.00	\$3.00	\$1.50	\$4.70	\$1.20-\$6.75
2 Hours		2.00	1.25	2.00	2.50	3.75	7.50	6.00			
3 Hours		3.00	2.50	3.00	4.50	7.00	11.50	9.00			
4 Hours		5.00	4.00	5.00	7.00	9.00	17.00	12.00			
5 Hours		8.00	5.50	8.00	9.00	11.00	17.00	15.00			
6 Hours		11.00	7.00	11.50	11.50	15.00	17.00	18.00			
7 Hours/Max		14.75	9.00	14.75	14.25	16.50	17.00	18.00		17.05	
Monthly		250.00	130.00	250.00	260.00	310.00	260.00	260.00		277.13	
EarlyBird		9.00				8.50	10.00	12.00		12.44	

Table 6.3: Parking Rates of Remaining City-Owned Garages and Surrounding Meter Rates

	<u>Non-Profit Garages</u>		<u>Direct Operation Garages</u>						Meter Rates	
	Civic Center Garage	Japan Center Garage	Lombard Garage	Mission- Bartlett Garage	Moscone Garage	Performing Arts Garage	Polk- McAllister Parking Lot	7th & Harrison Parking Lot		
	1 Hour	\$1.00	\$0.75	\$0.75	\$0.50	\$1.00	\$1.00	\$2.00	\$1.50	
2 Hours		2.00	1.50	1.50	1.25	2.50	2.00	3.50	2.50	
3 Hours		3.25	2.75	2.50	2.00	4.00	3.50	4.50	3.75	
4 Hours		4.50	4.00	4.25	2.75	5.50	5.00	5.50	5.00	
5 Hours		6.00	5.00	5.50	3.50	7.00	6.50	7.00	6.25	
6 Hours		7.50	6.00		4.25	9.00	8.00	9.00		
7 Hours		9.00	7.00		5.00	12.00	8.00	9.00		
8 Hours										
Monthly		156.25	100.00	75.00	75.00	145.00	115.00			
EarlyBird						7.00				

Sources: San Francisco Department of Parking and Traffic; Cushman and Wakefield "Central Business District Parking Survey 1993"

## Transient Versus Monthly Parkers

Except for 7th and Harrison and Polk/McAllister Parking Lots, all of the City-owned garages designate a certain number of spaces for monthly parkers. City-owned garages charge between \$75 to \$310 for a monthly parking space. While monthly parkers decrease the amount of space available for the City's target parking population (short-term parkers), monthly parkers provide a stable source of revenue. In those garages without enough transient parkers to fill the garage, there is usually adequate space to accommodate the monthly parkers. Tables 6.4 and 6.5 describe 1), the number of and revenues associated with transient and monthly parkers in FY 1992-93 at City-owned garages; 2), the amount of revenue received per transient and monthly space at each garage; and 3), the difference between the amount of revenue received per transient space compared to that received per monthly space.

**Table 6.4**

### **Non-Profit Garages FY 1992-93 Transient and Monthly Parkers**

	<u>Ellis O'Farrell</u>	<u>Japan Center</u>	<u>Portsmouth Square</u>	<u>Fifth &amp; Mission</u>	<u>Civic Center</u>	<u>Sutter-Stockton</u>
Transient Spaces	1,221	644	404	1,347	687	1,822
Annual Income	\$1,415,578	\$768,000	\$2,251,000	\$3,445,954	\$1,015,413	\$4,324,613
Revenue per Transient Space	\$1,159	\$1,193	\$5,572	\$2,558	\$1,478	\$2,374
Monthly Spaces	42	227	100	427	156	23
Annual Income	\$86,309	\$206,000	\$313,000	\$628,472	\$291,710	\$50,363
Revenue per Monthly Space	\$2,055	\$907	\$3,130	\$1,472	\$1,870	\$2,190
Annual Difference per Space						
Transient V. Monthly	\$(896)	\$285	\$2,442	\$1,086	\$(392)	\$184

As Table 6.4 illustrates, four of the non-profit garages - Japan Center, Portsmouth Square, Fifth and Mission and Sutter Stockton - receive more revenue per transient space than they receive per monthly space. The difference between the amount received per transient space compared to that received per monthly space is most significant at Portsmouth Square and Fifth and Mission Street Garages, (\$2,442 and \$1,086 more per transient space respectively). These differences indicate that the Japan Center, Portsmouth Square and Fifth and Mission Garages should consider reducing the number of monthly parkers in favor of transient parkers.

**Table 6.5: Direct Operator Garages FY 1992-93 Transient and Monthly Parkers**

	Lombard Garage	Performing Arts	7th & Harrison	St. Mary's Square	Vallejo St. Garage	Golden Gateway	Moscone Center	Polk/ McAllister	Union Square
Transient Spaces	115	552	192	378	145	787	454	51	1,028
Annual Income	\$93,297	\$818,711	\$265,407	\$896,170	\$591,122	\$1,434,062	\$414,652	\$168,907	\$3,334,953
Revenue per Transient Space	\$811	\$1,483	\$1,382	\$2,371	\$4,077	\$1,822	\$913	\$3,312	\$3,244
Monthly Spaces	90	60	0	450	6	325	278	0	72
Annual Income	\$81,000	\$82,800	\$0	\$1,404,000	\$19,800	\$1,014,000	\$483,720	\$0	\$267,840
Revenues per Monthly Space	\$900	\$1,380	NA	\$3,120	\$3,300	\$3,120	\$1,740	NA	\$3,720
Annual Differences Per Space									
Transient V. Monthly	(\$89)	\$103	NA	(\$749)	\$777	(\$1,298)	(\$827)	NA	(\$476)

However, before such a conclusion can be reached, the garages should evaluate the hours that the transient parkers most frequently use the garage and compare them to the hours the monthly parkers use the garage, to see whether both can be accommodated. For example, some of the monthly parkers at the Fifth and Mission Street Garage work the night shift at the Marriott Hotel, when transient parkers are less likely to use the garage. Further, the expansion of the Fifth and Mission Garage will provide additional spaces for transient parkers which should decrease the disparity between revenue per transient space and revenue per monthly spaces. Portsmouth Square Garage does not have such extenuating circumstances and should consider reducing the number of monthly parkers.

In contrast, the Ellis-O'Farrell and Civic Center garages receive more revenue per monthly space than per transient space. Ellis-O'Farrell receives \$896 more per monthly space than per transient space. Civic Center receives \$392 more per monthly space than per transient space. These differences indicate that the Ellis-O'Farrell and Civic Center Garages should increase the number of monthly parkers. However, these two garages do not have excess demand for monthly parking spaces. According to the President of the Ellis-O'Farrell Garage, management is trying to increase the number of monthly parkers through increased advertisements. In addition, the FY 1993-94 transient parking revenue projections for the Ellis-O'Farrell Garage is \$2,048,255. The Ellis-O'Farrell Garage is currently meeting that projections which represents an increase of approximately 45 percent in revenue per transient space. Thus, it may not be profitable for the Ellis-O'Farrel Garage to increase the number of monthly parkers.

Table 6.5 on the previous page includes the breakdown of monthly and transient parkers at City-owned direct operation garages. As this table indicates, in contrast to the non-profit garages (except for the Performing Arts and Vallejo Street Garages), all of the direct lease garages receive more revenue per space from monthly parkers than from transient parkers. Although the Performing Arts Garage receives more per transient space than it receives per monthly space, the majority of the transient parkers use the garage during the evenings while all of the monthly parkers use the garage during the day. Thus, the Performing Arts Garage should not decrease its number of monthly parkers in favor of transient parkers. The Vallejo Street Garage only has six monthly parkers. While the Vallejo Street Garage could decrease the number of monthly parkers in favor of transient parkers, because there are only six monthly parkers, any additional revenues generated by that reduction would be marginal. Therefore, we do not recommend decreasing the number of monthly parkers at the Vallejo Street Garage.

The disparity between revenues associated with monthly parkers and revenues associated with transient parkers at the City-owned direct operation garages could reflect the relatively high hourly rates compared to the non-profit garages. Most of the direct operation garages do not limit the number of monthly parkers and, in fact, seek to increase the number of monthly parkers. Thus, the number of monthly parkers at each garage is probably near the maximum given the monthly parking rates. Increasing revenues at direct operation garages may require the City to lower the hourly rates to increase the number of transient parkers. As discussed below, on average, none of these garages are at their capacity. Decreasing

hourly rates could increase the number of transient parkers and therefore, increase the total revenues the City receives.

### Transient Parking Turnover

The volume of demand for transient parking spaces in part determines whether transient parking rates should be increased or decreased. If all of the transient parking spaces are used 100 percent of the time, then hourly rates could most likely be increased which, in turn, would increase total revenues. Table 6.6 below describes the average percentage of time each transient parking stall is occupied, based on the hours the garage is open and hours of peak transient use (for this analysis we used 8:00 am to 10:00 pm daily).

**Table 6.6**

### Annual Transient Parking Use

<u>Garage</u>	<u>Percentage of Time All Transient Parking Stalls Are in Use</u>
<u>Non-Profit Garages</u>	
Portsmouth Square .....	89%
Sutter-Stockton.....	46
Civic Center.....	29
Fifth and Mission.....	27
Japan Center .....	24
Ellis-O'Farrell .....	22
<u>Direct Lease Garages</u>	
Vallejo Street.....	45%
Union Square .....	34
Polk/McAllister.....	32
7th and Harrison.....	22
Performing Arts .....	22
Lombard Street .....	17
Moscone Center.....	14
Golden Gateway.....	13
St. Mary's Square .....	13

As described in Table 6.6, the highest transient parking stall use is at Portsmouth Square Garage where between 8:00 am to 10:00 pm daily each transient parking stall is occupied approximately 89 percent of the time. At the garages with the lowest transient parking stall use, St. Mary's Square and Golden Gateway Garages, each transient parking stall has a vehicle in it only 13 percent of the time.

These numbers indicate which garages may be able to increase transient parking rates and which garages may need to decrease transient parking rates to increase total revenues. However, we do not know whether the number of transient parkers would remain constant, increase or decrease by changing parking rates. We do not know, for example, whether the below market rates charged at the non-profit garages are lower than necessary to attract shoppers to the downtown area. Perhaps they could be raised \$.25 and the same number of transient parkers would continue to use the garage. Because their rates are considerably below the market rate, the optimal rate is difficult to determine without additional information. Nonetheless, based on the use of transient parking spaces, it is possible that hourly rates could be raised at Portsmouth Square, Vallejo Street and at the Sutter-Stockton Garages.

At the same time, based on current usage, hourly rates could be lowered at St. Mary's Square, Golden Gateway and Moscone Center. However, according to the operator of the St. Mary's Square and Golden Gateway Garages, the low garage usage figures shown in Table 6.6 reflect the fact that these garages are almost at capacity between 8:00 a.m. and 6:00 p.m. Monday through Friday and almost empty during the evenings and week-ends. Lowering the hourly rates at the St. Mary's Square and Golden Gateway Garages may only serve to decrease total revenues. In addition, the St. Mary's Square Garage has recently experienced an increase in transient vehicles of approximately 300 daily. Similarly, the transient vehicles using the Moscone Center Garage are primarily Moscone Convention Center visitors. Decreasing the hourly rates at the Moscone Center Garage would not necessarily result in increased demand for transient parking. Considering the recently completed Yerba Buena Gardens, demand at the Moscone Center Garage should begin to increase without decreasing its hourly rates.

As previously mentioned, each garage should analyze the impact on demand when making parking rate changes. Such an analysis would require changing parking rates and evaluating the change in transient parkers on an experimental basis over time (for example, two months). A complete list of other factors that might impact demand such as the rates of surrounding garages, special events that may have temporarily increased demand for parking, etc., should be established as part of this analysis. If a garage's one hour rate is increased by \$.25 and after a month, the number of transient parkers decreases to the point where total revenues decrease, then the garage's one hour rate should be reduced. Conversely, if the one hour parking rates at a garage are lowered and the number of transient parkers does not increase, then the rates should be raised to their previous level.

## **CONCLUSION**

While the City's Transit First Policy seeks to restrict the commuters driving into and around the City, the City built 15 garages and charges below-market short-term parking rates to encourage shoppers and others such as restaurant customers and theater patrons to drive into the City. The City also has an interest in maximizing parking related revenues. In FY 1992-93, the City received \$52,352,851 from parking related revenues of which \$13,273,522 was generated by City-owned garages.

There are several indicators that City-owned garages could increase or decrease parking rates to maximize revenues while continuing to encourage short-term parkers. Among the 15 City-owned garages, 13 have one-hour rates of \$2.00 or less, or approximately \$3.00 less than the average of private garages. Four of the 15 City-owned garages charge less than \$1.00 for the first hour while the surrounding parking meters are \$1.00 to \$1.50. Portsmouth Square and Fifth and Mission Garages receive approximately \$2,442 and \$1,086 more revenue respectively per transient space than per monthly space and could therefore decrease the number of monthly parkers in favor of transient parkers. Based on the high use of transient parking spaces, it is possible that hourly rates could be raised at Portsmouth Square, Vallejo Street and at the Sutter-Stockton Garages.

However, each garage should analyze the impact on demand when making parking rate changes. Such an analysis would require changing parking rates and evaluating the change in transient parkers over time. Because the City's rate changing process is time-consuming, it does not permit the garages to manipulate hourly rates on an experimental basis to measure the effect on demand for transient parking.

## **RECOMMENDATIONS**

The Parking and Traffic Commission should request the Mayor and the Board of Supervisors to:

- 6.1 Permit the DPT to adjust parking garage rates for 90-day experimental trial periods as needed and measure the effects on garage revenue and usage. Require the DPT to seek Board of Supervisors approval of any permanent rate changes at the end of each 90-day trial period.
- 6.2 If the Mayor and the Board of Supervisors permit the Parking and Traffic Commission to adjust rates over a 90-day trial period, they should require the DPT to provide them with a detailed report analyzing the impact to the City's revenues from the trial rate changes when they seek Board of Supervisors approval of permanent rate changes.

The Parking and Traffic Commission should:

- 6.3 Consider increasing hourly rates on an experimental basis at Portsmouth Square, Fifth and Mission, Sutter-Stockton, Vallejo Street, Mission-Bartlett and Japan Center Garages.
- 6.4 Reduce the number of monthly parking spaces at Portsmouth Square Garage and consider reducing the number of monthly parking spaces at Japan Center and Fifth and Mission Garages, in favor of transient parking spaces on an experimental basis.
- 6.5 Direct the Off-Street Parking Division to provide technical and analytical support to the City-owned garages in setting rates.

## **COSTS/BENEFITS**

Implementation of these recommendations should assist the City in maximizing its parking revenues while continuing to encourage persons to drive to the City's retail districts.

## **SECTION 7: MARKETING OF PARKING FACILITIES**

- THE DEPARTMENT OF PARKING AND TRAFFIC HAS NOT DEVELOPED A COMPREHENSIVE MARKETING PLAN FOR ALL OF THE CITY'S PARKING FACILITIES. NOR HAS THE DEPARTMENT REQUIRED EACH OF ITS PARKING OPERATORS AND NON-PROFIT BOARDS OF DIRECTORS TO DEVELOP A MARKETING PLAN FOR EACH OF THE CITY'S PARKING FACILITIES.
- BY REVIEW AND APPROVAL OF EACH FACILITY'S MARKETING PLAN, THE DEPARTMENT OF PARKING AND TRAFFIC COULD INSURE THAT THE CITY'S MARKETING EFFORTS ARE PROPERLY COORDINATED AND THAT MAXIMUM REVENUES ARE GENERATED WITHIN THE FRAMEWORK OF OTHER CITY POLICIES.
- POSSIBLE COMPONENTS OF A COORDINATED MARKETING PLAN INCLUDE AN INFORMATIONAL FLYER AND A DOWNTOWN RESTAURANT VALIDATION PROGRAM. THE ADVERTISING PROGRAM NOW BEING UNDERTAKEN BY THE ELLIS-O'FARRELL GARAGE SHOULD ALSO BE EVALUATED FOR APPLICATION IN OTHER CITY-OWNED GARAGES.

The City has not prepared a comprehensive marketing plan for all of the City's parking facilities. Recent leases and operating contracts for the City-owned garages contain a requirement that the garage operator develop and implement a marketing plan. Marketing plans have not yet been required of all operators. Most of the operators of the City's garages operate parking facilities for other public and private garage owners and have some level of marketing expertise. Those operators that receive a flat-fee compensation, however, have nothing to gain from increasing use of the garage. The transition to percentage of gross revenue compensation among the garages for which it is legally and financially feasible should create more of an incentive for operators to aggressively market their contracted facilities.

The DPT should exercise some caution, however, in approving marketing plans, whether submitted as part of a bid or for reimbursement. A garage is not a "destination," in and of itself. There are essentially two things that attract a patron to a garage: its location, and its price. Elaborate, costly promotional schemes are unlikely to pay for themselves. What follows is an examination of three possible marketing strategies.

## Informational Flyer

As shown earlier, in Table 6.2. the City-owned garages as a group are less expensive than their private competition, at least for short-term parking. To make the parking public aware of this fact, the DPT should prepare a one-page promotional flyer, for distribution at all City-owned parking facilities. Patrons of garages probably do not know which are public and which are private. The flyer should list the City-owned garages with their locations, and deliver a message along the lines of:

*Congratulations! You are saving money.  
City-owned garages are the best parking bargain downtown.  
Keep this list in your glove compartment for handy reference.*

Of course, the flyer would have to note that parking rates in City-owned garages are not uniform. The amount of savings compared to the private competition varies, but the rate advantage over average private facilities exists for all City-owned garages, and can be honestly promoted. An attractive one-page flyer could be designed for approximately \$250, assuming DPT provides the basic text to the Purchasing Department. An initial printing of 150,000 to 300,000 copies would cost approximately \$3,500 to \$6,000. Therefore total costs range from \$3,750 to \$6,250.

## Validation Programs

Promotional efforts can be targeted not only at garage patrons, but also at the businesses that are their destinations. Validation programs involve sale of discounted coupons or stamps to businesses, which use them to provide limited free parking to their customers. Because validations are discounted, validation programs must be carefully planned to attract patrons who would not otherwise use a garage. Such programs have had mixed success among City-owned parking facilities.

The Japan Center Garage uses validations extensively. As noted in Table 6.6, Japan Center parking stalls are in use only an estimated 24 percent of the time the garage is open. Given this situation, a validation program is a reasonable measure to take to increase transient parking. The nearby AMC Kabuki theaters advertise three hours of validated parking at the Japan Center Garage.<sup>1</sup> The theater purchases validation stamps at a rate of \$1.55 each, compared to the normal evening three-hour rate of \$2.75. Japan Center Garage also sells validations to area merchants without time restrictions, for \$1.65 per sticker, and a third sticker at face value that provides the garage patron with 40 cents off any parking charge at the garage.

---

<sup>1</sup>In the future negotiations with the AMC Kabuki Theater, the Western Addition Parking Corp. should consider increasing the validation period to 4 hours, to accommodate long movies without creating a waiting line as movie goers pay the small difference between their validations and the time elapsed on exit from the facility. An approximate 20¢ additional charge per sticker would be required to insure that increasing the validation time period would not result in a reduction in parking revenue.

While Japan Center Garage has been fairly successful in marketing validations to businesses, an effort to initiate an ambitious hotel validation program for Sutter-Stockton Garage during FY 1992-93 failed to generate anticipated revenues. The non-profit corporation proposed the program as a way to increase garage revenues without increasing rates. Garage management found that, at least in the current hotel market, most area hotels did not feel that the promotional value of free or discounted parking to them would justify the cost of the validations.

A successful validation program requires careful identification of a potential market, competitive pricing, and aggressive salesmanship. Our analysis indicates that the downtown garages might be able to implement a restaurant validation program to increase evening parking. This is the time when most of the garages have excess capacity. An increase in evening utilization would increase net revenues, because the fixed costs of operation are already being incurred, and the current evening staff at most of the garages could handle an increase in parking traffic.

A joint evening restaurant validation program, involving some or all of the downtown City-owned garages, should be investigated. The DPT, in consultation with garage operators and non-profit management, should conduct a marketing survey to ascertain: (1) the level of interest among area restaurants in purchasing validations; (2) the price range that would make the program attractive; (3) the appropriate amount of parking time the validations should provide; and (4) the specific garages the restaurants believe that their patrons would wish to use. Management of each garage should be responsible for developing a list of restaurants, delivering the survey to restaurant management, and returning completed surveys to the Off-Street Parking Division. Off-Street Parking Division staff can use the results of the survey to determine whether or not to pursue such a validation program.

### **Coupon Advertising**

The Ellis-O'Farrell Garage, which lost patronage during a 1992 expansion project and has not returned to pre-expansion volume, obtained permission from the Board of Supervisors to implement an experimental marketing plan in FY 1993-94. The plan consists of providing coupons worth three hours of free parking to a target market of suburban customers. Coupons will be mailed to addresses in certain East Bay zip codes, published in issues of the Chronicle that reach North and South Bay homes, and published in issues of the Performing Arts Magazine that are distributed to theater goers for one major performance run.

The efficacy of this type of promotion has not been tested in San Francisco. Its stated goal is to make shoppers aware that the garage is no longer under construction, at the same time pursuing the goal of attracting suburban shoppers back into San Francisco's downtown. If the promotion is successful in achieving higher consistent transient volume, it could be replicated for other City-owned garages.

The resolution that authorized the promotion requires that the DPT submit a report to the Board of Supervisors evaluating its effectiveness. This report should include a breakdown of the number of responses from each type of coupon, compared to the number of each type that were published or mailed; a comparison of garage usage during the promotion and for three to six months after the promotion with usage during the same months last year and before the expansion; and an analysis of the cost of the promotion -- measured by taking the difference between transient revenues during the promotion and transient revenues during the same period last year, including Parking Tax revenues. After this kind of thorough analysis, staff of the DPT should be able to judge whether or not to pursue a broader coupon program, either on a case-by-case basis or for a group of parking facilities.

## **CONCLUSION**

The Department of Parking and Traffic has not developed a comprehensive marketing plan for all of the City's parking facilities. Nor has the Department of Parking and Traffic required the operators of all of the City's facilities to prepare marketing plans. Few of the City-owned garages have active marketing strategies, despite the fact that many garage operating companies have marketing expertise that should be utilized. By review and approval of each operators' marketing plans, the Department of Parking And Traffic could insure that the City's marketing efforts are properly coordinated and that maximum revenues are generated consistent with other City policies.

Location and rates are the key variables in consumer parking decisions, so the DPT needs to increase awareness of the favorable short-term rates available at the City-owned parking facilities. Validation programs are another way to increase garage patronage, but they must be carefully tailored to serve a target group of merchants and attract new patrons to the garage. There may be an opportunity to expand evening parking in the downtown area garages with a restaurant validation program. The effectiveness of coupon advertising will be tested by the Ellis-O'Farrell Garage during FY 1993-94.

## **RECOMMENDATIONS**

The Parking and Traffic Commission should:

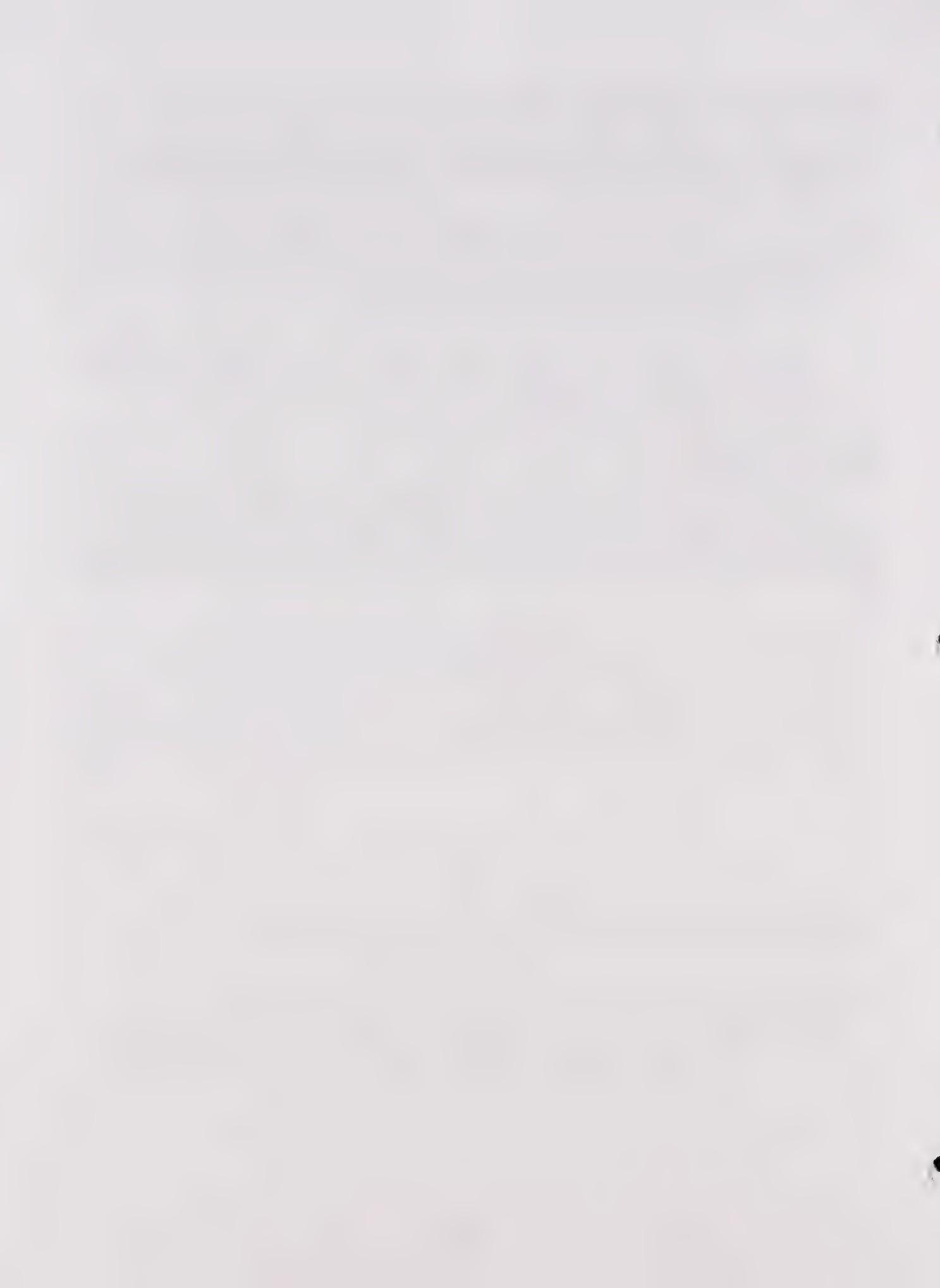
- 7.1 Direct staff to prepare a coordinated marketing plan for all of its parking facilities, including parking meters and parking lots which are controlled with parking meters instead of being staffed.
- 7.2 Enforce requirements that each garage operator and non-profit corporation board of directors prepare a marketing plan for each parking facility. Parking and Traffic Department staff should make recommendations to the Commission as to any changes in these plans prior to approval.

The Department of Parking and Traffic should:

- 7.3 Develop a one-page flyer to advertise the locations and price advantage of the City-owned garages. Individual garage management should disseminate the flyers to their patrons.
- 7.4 In consultation with downtown garage operators, prepare a survey to assess the potential for an evening restaurant validation program in the downtown area. Garage operators should take responsibility for disseminating and collecting the surveys, for analysis by DPT staff.
- 7.5 Carefully evaluate the results of the Ellis-O'Farrell coupon marketing program. If necessary, the DPT should request periodic follow-up reports from the Ellis-O'Farrell Parking Corporation to measure long-term effects of transient parking at the garage.

#### **COSTS/BENEFITS**

The cost of designing a one-age flyer and printing an initial run of 150,000 to 300,000 copies would be approximately \$3,750 to \$6,250. Implementation of the proposed recommendations will help to maximize usage of the City-owned parking facilities, thereby increasing utilization of the parking facilities and revenues to the City.





FRANK M. JORDAN, Mayor  
JOHN E. NEWLIN, Executive Director

City and County of San Francisco



November 16, 1993

Mr. Harvey M. Rose  
Budget Analyst  
Board of Supervisors  
City and County of San Francisco  
1390 Market Street, Room 1025  
San Francisco, CA 94102

Dear Mr. Rose:

I appreciate the thoroughness of the audit of City-owned garages. The audit identifies a number of actions that can be taken that will enhance the fiscal controls over the garages, ensure a high level of service to motorists, improve operations and maximize revenues to the City.

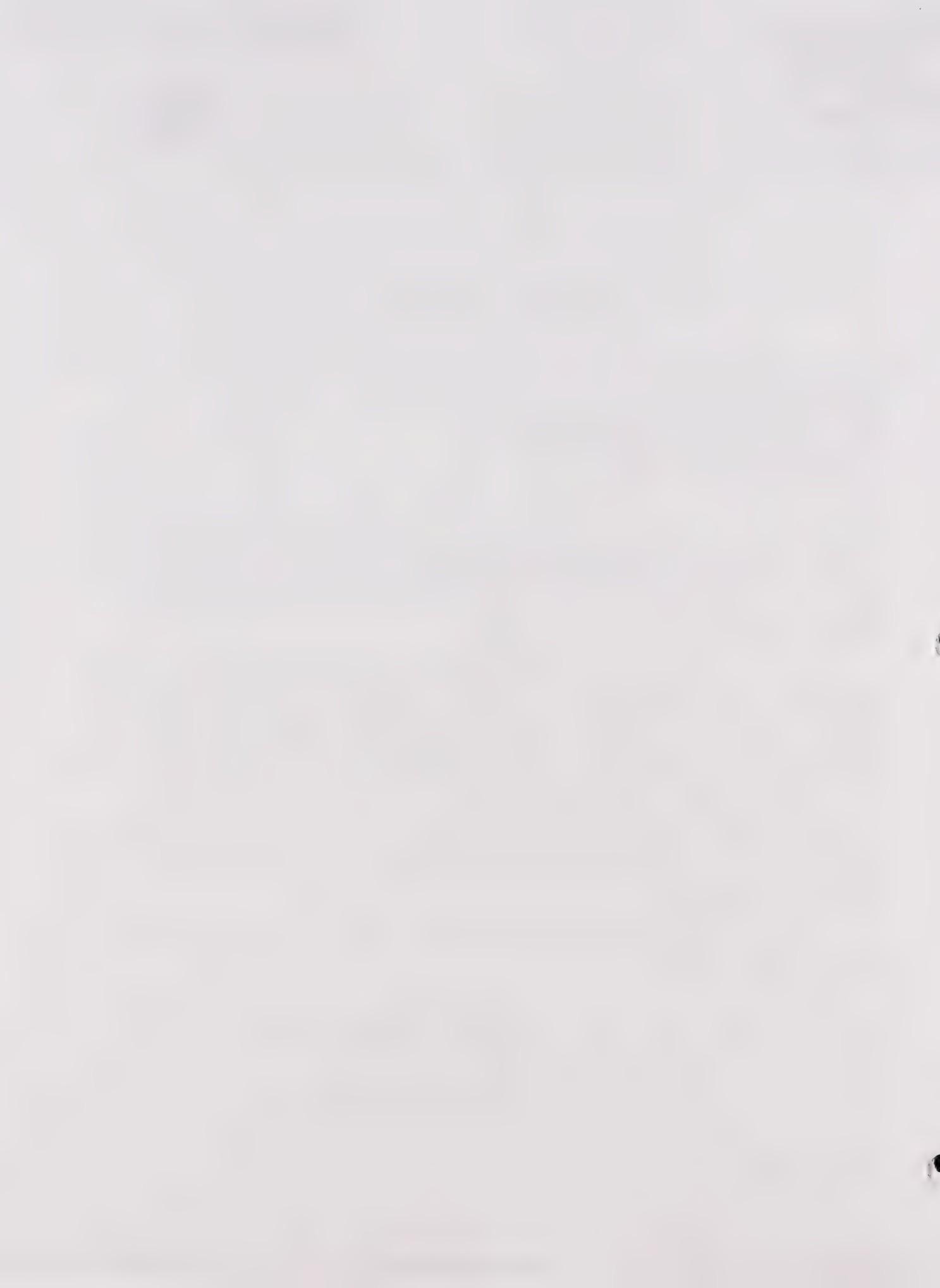
It is my intention to recommend to the Parking and Traffic Commission that each of the actions recommended by the audit be adopted as soon as possible. In some cases, the Parking and Traffic Commission will be able to adopt the recommendation for immediate implementation; in other cases, the Commission must request action by the Board of Supervisors. As you may know, there are a number of recommendations that the Parking and Traffic Commission is in the process of implementing including directing that the operating agreements at all non-profit parking facilities be competitively bid and nominating City representatives for inclusion on the boards of directors of non-profit corporations.

I would like to thank you and your staff for a professional and thorough report.

Sincerely,

John E. Newlin  
Executive Director

JEN:TJ:wjs



KEIL AND CONNOLLY

ATTORNEYS AT LAW

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244 KEARNY STREET

SAN FRANCISCO, CALIFORNIA 94108

TELEPHONE (415) 986-4667

EDWARD D. KEIL (1904-1979)

GEORGE A. CONNOLLY (1907-1987)

PAUL NEWMAN

November 16, 1993

Mr. Harvey Rose  
Budget Analyst  
1390 Market Street  
Suite 1025  
San Francisco, CA 94102

Dear Mr. Rose:

I appreciate the opportunity to come to your office to review the draft of the Management Audit of Parking Facilities, and submit my comments. As I am sure you realize, the safeguards of keeping the draft confidential until published was the cause of some inconvenience, because I did not have the luxury of unlimited time to review your findings. However, I am making this response to Section 4 of the Management Audit of Parking Facilities relating to legal services, on behalf of myself personally, as attorney for Uptown, Downtown, Portsmouth and Civic Plaza Parking Corporations.

I will comply with your recommendations in the report as follows:

I will meet with the Boards of Directors of the respective non-profit corporations which I represent and discuss and agree with them as to the nature of the services I will provide for them, and how and at what rate these services will be included in my invoices, including how these services will be described, and will make written agreements with them including all of these terms.

I will further accede to your recommendation to enter into a written agreement with each of the non-profits I represent to avoid multiple billings. I have already proposed a procedure to bill services applicable to more than one client, to provide for itemization of the service and the division of the time equally among the involved clients.

As for your comments on multiple billings, I do not agree with your finding that I unjustifiably profited, but I do agree that I have done nothing illegal or unethical in my billing

Mr. Harvey Rose  
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practices. In my review of the schedule of multiple billings prepared by you, two components of generally accepted standard legal billing procedures are involved, minimum billing and description of services, which explain my position. As for minimum billing, when I performed a legal service shared by two or more corporations, such as a telephone call, each of the clients were billed for the minimum time period, that is for ten minutes. The rationale for this billing procedure is that whatever the length a call may be the service is billed for 10 minutes, and therefore the billing is averaged among all of the calls made. Therefore, a short telephone call to set up a meeting, is balanced against a call taking over an hour; for example, setting up budget guidelines. Almost all of the time on the schedule that you provided to me is based on minimum billing. Also, the description of services in the bills may not necessarily be complete, as, for example, my billing procedure may involve a meeting at the Department of Parking and Traffic, involving two or three corporations. The meeting may have lasted two hours, however, the meeting may have involved a review of all the subject leases prior to attending the meeting, as well as travel time. However, the billing entry probably records that I attended a meeting at the Department of Parking and Traffic, without description of preparation and travel. Therefore, in all these instances more time was expended than is described or itemized on the time sheet.

I would also like to comment that legal services are not valued solely on the basis of time spent on a project, but also include professional responsibility. The time charged attending a meeting does not take into consideration the preparation and research that may well have to be done prior to the meeting. A lawyer on trial may spend a limited amount of time in the courtroom, but courts and clients do and should take into consideration the so-called "home work" done before trial.

In connection with multiple billing, your Report indicates that you checked with the California Bar Association, and that I did not act either illegally or unethically. In addition, all of my bills were submitted pursuant to established requisition procedures and were paid only upon approval by the City Controller. Further, my bills were subject to the audit by the Audits Division of the Controller's office in 1988 and 1989, and were not even mentioned in the Audit Report. Finally, my billing procedures were openly discussed in the meetings of the Parking Authority and the Controller's Office.

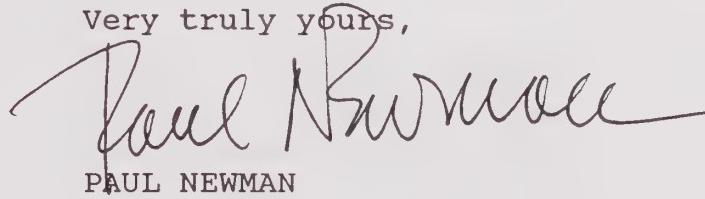
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I realize that there have been some clerical errors in my bills for the periods audited, as identified in the audits of the Controller's Audit Division. An example is the day you describe, August 20, 1991, when my billing for one work day was 29 hours long. This obviously was a mistake. I am in the process of reviewing the time for those days and will credit the corporations for those errors in my bills.

Just as I have volunteered to the auditors in the Controller's office, I would like the opportunity to meet with you and your staff, together with my files, time sheets, personal diaries and daily work sheets, and the bills, and review each entry, in order to adjust the bills accordingly. However, as an alternative, in the interests of cooperation and the conservation of time and effort, although I do not agree with your analysis of my billing, I am willing to and I hereby offer to make payment or to give credit for services performed in the amount specified in your recommendations, or \$19,923.00, to the corporations I represent. I expect this will resolve the matter once and for all, so we can move on with the important business of the corporations.

Thank you once again for the opportunity to review the draft and comment on it.

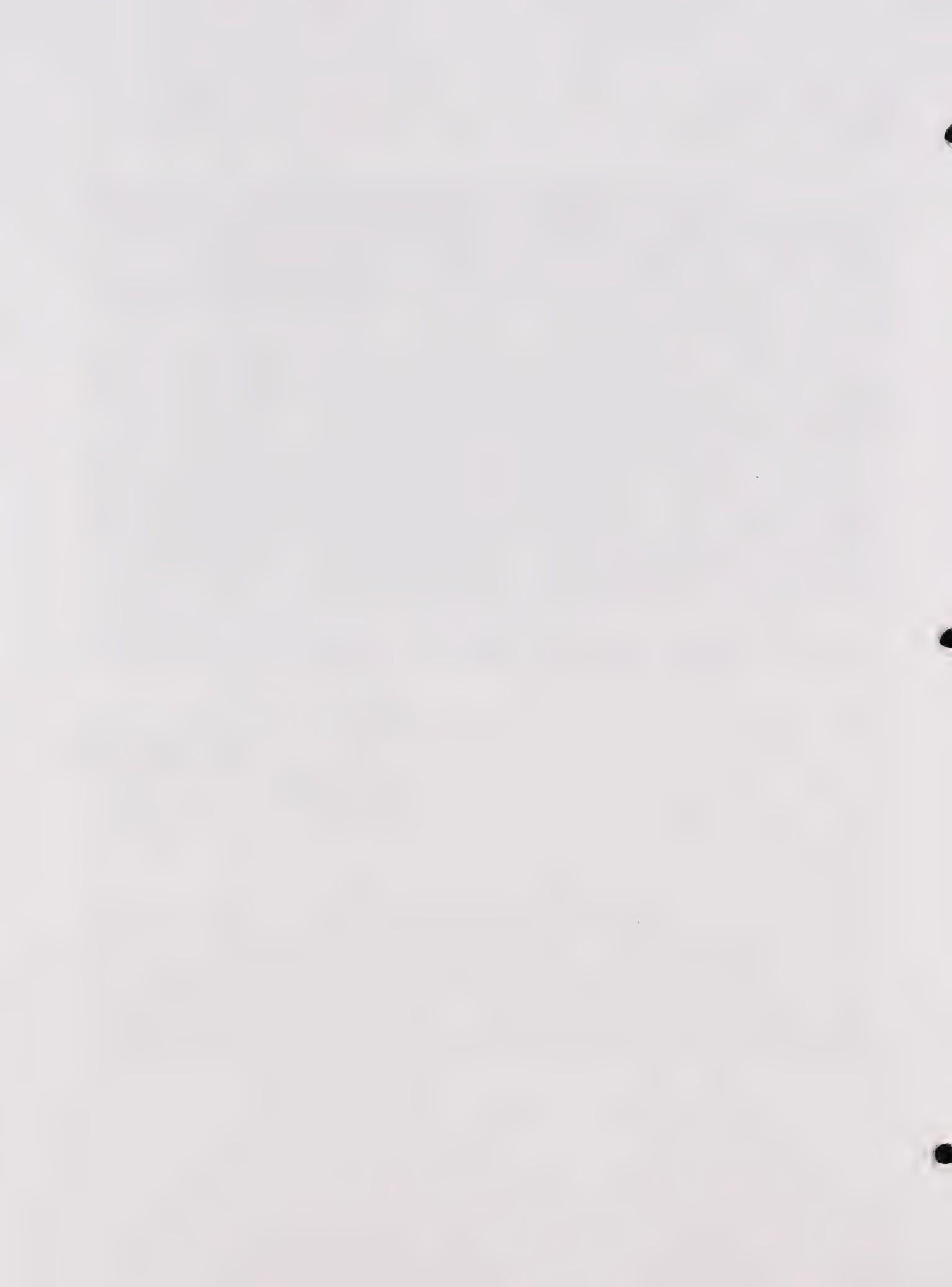
Very truly yours,



A handwritten signature in black ink, appearing to read "Paul Newman".

PAUL NEWMAN

PN: jki



# CITY OF SAN FRANCISCO

## PORPSMOUTH PLAZA PARKING CORPORATION

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SECRETARY

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HAZEL LOUIE

MAY LOUIE

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NELLIE YOUNG

KEIL AND CONNOLLY  
LEGAL COUNSEL

November 16, 1993

Mr. Harvey Rose  
Budget Analyst  
1390 Market Street  
Suite 1025  
San Francisco, CA 904102

Dear Mr. Rose:

Thank you for the opportunity to allow the representatives of City of San Francisco Portsmouth Plaza Parking Corporation to review the draft report of the Management Audit of Parking Facilities. City of San Francisco Portsmouth Plaza Parking Corporation has some comments concerning Section 3 of the Report.

1. The Corporation's agreement to make payments of 85% of the net revenue of the garage is not contained in the lease between the City and its Recreation and Park Commission and the Corporation dated March 29, 1960, but rather in an agreement between the City and The Corporation dated May 25, 1983, and it actually provides that the Corporation will transfer 85% of the funds transferred to the Surplus Revenue Account under the Trust Indenture to the City, and the sum of \$50,000.00, adjusted annually for the maintenance of Portsmouth Plaza from the retained funds of the Corporation, and that the City would not exercise its option to terminate the lease prior to its fifty year term. The Corporation would retain the remaining 15% for capital improvements to the Garage.

2. Table 3.1 of the report is incorrect in that a payment of \$586,703 was made in July 30, 1992 by the Corporation. A revised table is as follows:

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F/Y	Amount	Due	Date Paid	Amount Paid	Difference
87-88	\$109,780.00	6/1/88			\$109,780.00
88-89	\$640,600.12	6/1/89	7/5/89	\$750,380.00	(109,779.88)
89-90	\$586,703.28	6/1/90	7/30/92	586,703.28	-0-
90-91	\$644,482.50	6/1/91	4/8/93	647,627.50	-0-
91-92	\$433,462.05	6/1/92	11/10/93	433,462.17	( .12)
92-93	\$538,831.74	6/1/93			\$538,831.74
	\$2,953,859.69			\$2,418,172.95	\$538,831.74

3. The Report indicates that the \$500,000.00 construction loan made by Recreation and Park to the Corporation to install new elevators and make other improvements to Portsmouth Square has nothing to do with the amounts owed to the City resulting from the agreement to transfer the 85%. In fact, the \$500,000 loan and the 85% payments to the City are interrelated, and a brief history of the elevator and plaza renovation project demonstrates that fact, as well as the fact that the Recreation and Park Department substantially benefitted and the Portsmouth Plaza Parking Corporation was disadvantaged by the entire transaction. Prior to this project, the Corporation made timely transfers of the funds under the 85% agreement, while planning to install three new hydraulic elevators, paid for with the Corporation's retained 15%. The estimated cost of the elevators was \$900,000, and at that point the Corporation's capital reserve fund would have been sufficient. At a meeting in February, 1987, representatives of Recreation and Park and the Department of Public Works, with the Corporation's engineer, advised the Board that three elevators could not be installed where the elevators currently were, and they proposed moving the elevators with the elevator housing next to the Kearny Street Bridge. They proposed that this be part of the Recreation and Park Department Phase I to renovate Portsmouth Plaza, and the Department asked that public washrooms be included in the elevator building. The Recreation and Park Department was dissatisfied with the Corporation's basic design, and gold-plated it, and the

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Corporation had no opportunity to bargain. The Portsmouth Board reluctantly agreed, because this was the only way the garage could obtain the needed new elevators. At that time, the Corporation was expected to pay for the elevators and washrooms only, estimated at \$1,200,000.

From that point on, Recreation and Park controlled the Plaza project, including recommending the architect, and the cost escalated to \$1,965,405, of which \$770,000 was for the elevators, and, subsequently, the Corporation was advised by Recreation and Park that the Corporation was expected to pay for all of the Plaza improvements. Once again, as this was the only way that the elevators could be replaced, the Corporation reluctantly agreed. Recreation and Park requested further upgrades of over \$100,000, and when the bids finally came in, the low bid was \$2,159,000. The Corporation was advised by Recreation and Park to proceed, with an additional, unexpected change order totaling another of \$56,000 from Recreation and Park.

Unfortunately, at the planning stage, an error had been made by the corporate trustee, Security Pacific National Bank, in advising all of the parties of the surplus funds available, by including the carrying value of the garage on the books as a liquid asset. Therefore, there were less funds available than all of the parties believed. The Corporation's Board was not made aware of this error until later, but the Board had no reason to disbelieve the Trustee. The Trustee's reports had been distributed to the garage management company, S. E. Onorato, Inc., (which was merged into the present operator, City Park, this year,) which was paid by the Corporation to operate the garage. In September, 1990, the Board was advised by the operator that there was insufficient funds to complete the job. The Board was shocked and surprised by this information.

The construction began in January, 1990, and proceeded until September, 1990, when the Corporation advised Recreation and Park, that it did not have sufficient funds to complete the project. At that point, the new elevators had been installed and were functioning, but the work on the plaza was not complete. To complete the plaza renovation, Ernie Prindle, Assistant General Manager for Finance and Property of Recreation and Park, required the Corporation to make a loan in the amount of \$1,400,000 from Recreation and Park, which the Corporation did not want to do, but was forced to go along with Recreation and Park, so that the Corporation could finish the project, pay its parking and gross

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receipts taxes and make its 85% transfer to the City for fiscal year ending 1991. The first increment of the loan was made in the amount of \$500,000, and at a meeting between Recreation and Park, the Corporation and the Controller's Office, a decision was reached that no further increments should be made because it was a difficult and lengthy program for the Corporation to repay such a large amount from its 15%. The garage representatives were told by Mr. Prindle to make payments to the contractor out of garage revenue. At that time, it was acknowledged by Mr. Prindle that it was the understanding of Recreation and Park that the Corporation would be late in making its 85% transfers to the City, but would make every effort to pay them as soon as possible. Since that time, the Corporation has been in arrears in making its transfer to the City, and has not yet begun to repay the loan. With regard to the \$500,000 loan, the Corporation has not had a "surplus" sufficient to pay interest. The various City departments from the beginning have understood this problem and worked with the Corporation.

The total Elevator and Plaza Renovation Project amounted to \$2,252,524, paid for as follows:

Reserve and Surplus Funds of Corporation	\$984,206.00
Garage Revenues which would have been used to make the transfers if the total \$1,400,00 had been borrowed	768,318.00
Loan from recreation and Park	500,000.00
	\$2,252,524.00

Of that figure, a generous analysis by the engineers indicate that 55% was a benefit to the Corporation, and 45%, or \$1,018,136 was for the Plaza, the sole beneficiary being the Recreation and Park Department, which designed, managed and paid nothing for the project, except the loan to the Corporation. This analysis was done at the request of the Controller's office.

4. There have been continuing meetings to discuss settling this matter involving the Corporation, Recreation and Park, the City Controller's office, and the City Attorney's office to explore alternatives, including the possibility of forgiveness of the loan because the improvements made on the Plaza was for the benefit of Recreation and Park, and not for the garage.

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5. The Controller's office has advised the Corporation that Recreation and Park has not been injured in any way, and its budget has been kept intact, without deduction for the subject receivables from the Corporation.

6. The Corporation has at no time received a Notice of Default, and, in fact, has been working with the City Controller, City Attorney and Recreation and Park Department to resolve this serious problem.

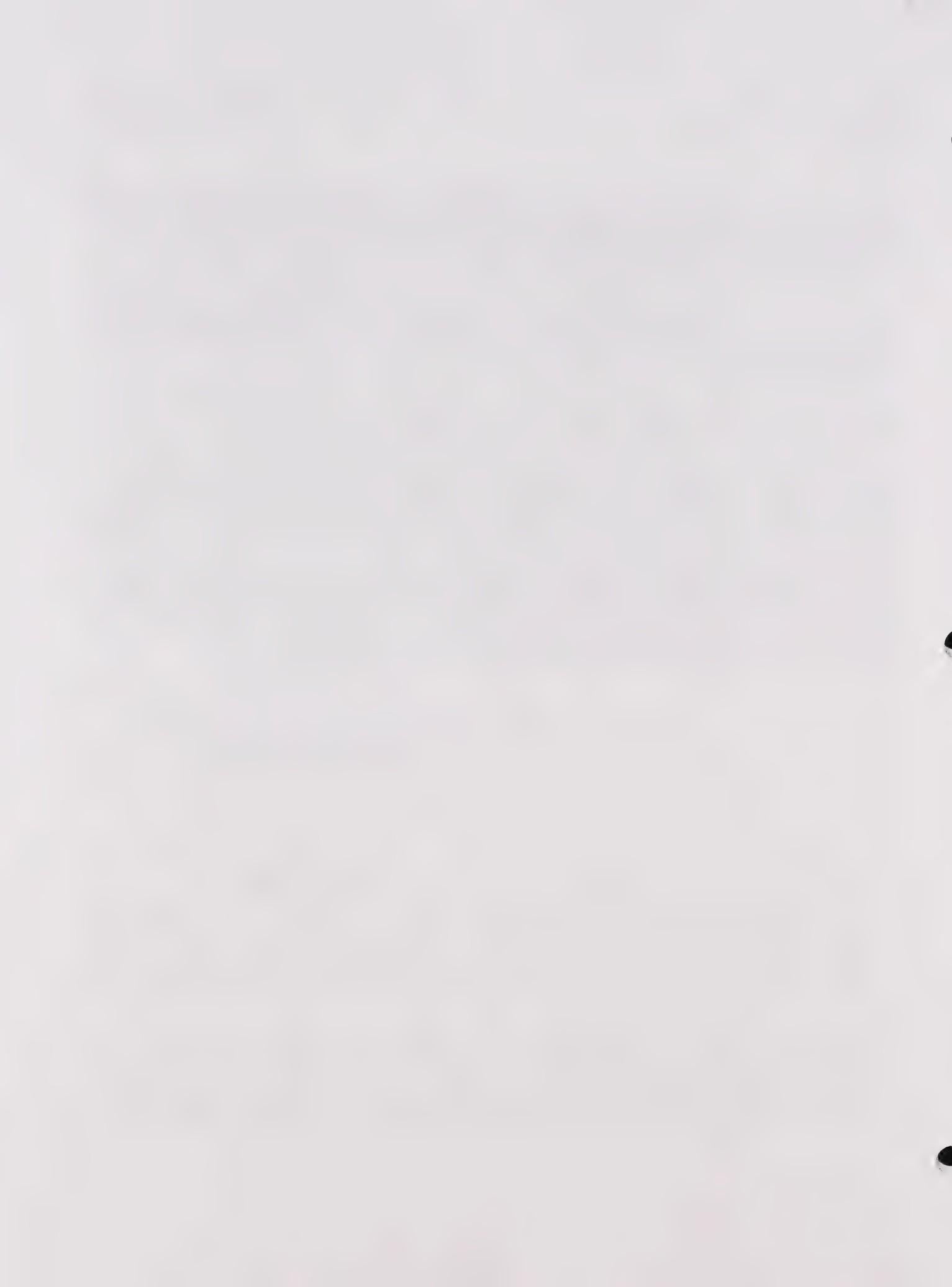
7. All of the Corporation's funds are accounted for, and the money has not been available to make the payments.

In a good faith manner, this Corporation undertook to accommodate Recreation and Park to complete one of its projects, almost totally under the control of Recreation and Park, without significant input from the garage, for which Recreation and Park received a benefit of over \$1,000,000, and the Corporation should not be penalized for doing so. The Corporation has timely paid all of its parking taxes, gross receipt taxes and construction costs from garage revenues and the Board feels that the management of the garage has done a remarkable job, and is optimistic that all of these financial matters can be satisfactorily resolved.

Very truly yours,

CITY OF SAN FRANCISCO  
PORTSMOUTH PLAZA  
PARKING CORPORATION

By May Louie  
May Louie  
President



RICHARD F. DOLE  
LAWYER

One Bush Street - Suite 200 - San Francisco, CA 94104  
Tel: 415 392-1451 Fax: 415 356-2750

November 13, 1993

William Courtright  
Budget Analyst's Office  
1390 Market St., Suite 1025  
San Francisco, CA 94102

Re: Nonprofit Garage Corporations - Report

Dear Mr. Courtright;

This augments my letter of November 6, 1993 regarding factual matters in the nonprofit garage report.

Section 4 - Nonprofit Corporation Legal Services.

1) Pg. 37 - I do not understand the report statement of potential savings in legal services based on the hourly rate of a City attorney. While this comparison may be appropriate to the analysis under Section 5, it has no relevance in this section. The statement suggests the City Attorneys office is a viable alternative for rendering legal services to these private nonprofit corporations. The statement is based on factual error.

2) Pg. 37, fn. 1 - The fiscal year for WAPC is April 1 through March 31.

3) Pgs. 36-45 - I have a serious problem with the report in its use and assumption of the fiscal year 1991/92 as a representative year for legal services, particularly in the case of the Ellis-O'Farrell and Downtown corporations. I will speak to Ellis-O'Farrell.

In 1991/92 I spent a total of 1,252.9 hours on E/O work. In the preceding 8 years (FY 1984-1991) my total time per year averaged 484 hours. The report does factor out the 699 hours incurred in expansion services in 1991/92 and uses the remainder, 554 hours, as a representative base to analyze and project future savings. However, the fact is that in the preceding 8 years the average annual number of hours that I billed was 337.7 hours, factoring out expansion services (the garage expansion has been an ongoing project of the board for many years).

In 1991/92 I spent 255.7 hours on tenant work. The bond issue closed in December 1991 and construction commenced in January, 1992. As a practical matter the expansion was approved in 1991. The tenant work directly reflected the anticipated construction and tenant concerns over the impact it would have on their operations. In comparison, over the preceding

8 years the average time spent on tenant work was 108.4 hours per year.

In 1991/92 I spent 179.6 hours on garage related services. Over the preceding 8 years I averaged 86.71 hours per year. Again, the increased activity reflected the prospective expansion project.

The point here is that the report is factually distorted in projecting savings based on a single fiscal year, 1991-92. It is not a representative year. The tables and discussion in this section predicated on 1991/92 as to Ellis-O'Farrell is biased based on historical fact.

I have a question concerning Downtown, Uptown and Portsmouth. I assume the hours expended reflect multiple billing. Clearly the City will not accept future multiple billing. Does the report factor out the hours of multiple billing reflected in 1991/92 in projecting future savings? If not, that omission would distort the conclusions on projected savings.

4) The report is critical of the use of attorneys in performing administrative functions and concludes that such services can be performed less expensively. The report notes that the melded legal rate while low for legal services is nevertheless substantially higher than the salary of an administrator. Projections of potential savings are offered based on the salary of an administrator after factoring out "pure" legal time. However, the report makes no similar adjustment for the cost of "pure" legal time based on competitive legal rates in the community.

Nor does the report consider that some administrative services performed at the melded rate actually may have resulted in substantial savings to the corporation. This is a demonstrated fact in the case of the Ellis-O'Farrell corporation in the monitoring of its expansion construction contract compared to Fifth and Mission where the monitoring is being performed by a full service construction management firm at a significantly higher cost.

#### Section 5 - Continuation of Non-Profit Parking Corporation Leases with the City.

5) Pg. 48 - The report suggests the need of a City representative on the nonprofit boards. The reason given is that the boards, representing the interests of the area surrounding the garage, may not weigh the City's interest in making expenditure decisions. But, no mention is made of the total control over expenditures reserved by the City under the garage leases. The leases from the City to the nonprofit corporations are very specific in giving the City unilateral control over expenditures. The City approval/control provisions were incorporated in the leases precisely to assure that City-wide interests are protected in fiscal matters and decisions involving the subject garages.

6) Pg. 48 - Under "Goals" in establishing operating policies, the report observes that "some" operating policies identified in the report require City approval. The fact is that all of the cited policies require City approval under the leases.

7) Pg. 48 - Under "Goals" in overseeing nonprofit budgets, the report notes that the

corporations must submit annual budgets to the Controller. The lease requires that a budget be submitted annually to the trustee, the Controller and the Commission (Parking Authority under the older leases).

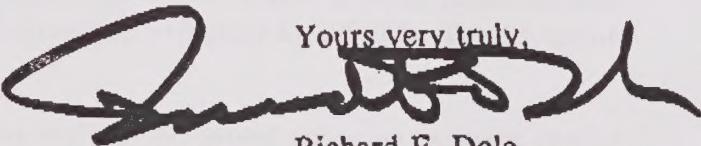
8) Pg. 49 - Under "Goals" in developing and operating improvement projects the report states that because the garages are not directly managed by the City, the corporations are not required to follow City procedures. In fact, nonprofit garage corporations are private corporations not governed by the City charter and ordinances and the requirements thereunder pertaining to City departments and agencies.

#### Section 6 - Parking Rates.

9) Table 6.4 - This table cites income figures for the FY 1992/93. As respects Ellis-O'Farrell this is not an appropriate year on which to draw conclusions or base projections. The expansion was not completed until January 1993. Income figures for 1992/93 are not representative because the garage was impacted by construction during this period. \$1,395,092 is not the transient figure reflected in the corporation's audited report (\$1,415,578).

The corporation's projection for the current fiscal year on which the corporation based its request for the approved rate increase, is \$2,048,255 from transient parking (after parking tax). The garage is currently meeting that projection. The corporation projected 80 monthly parkers. The garage now has 70 monthly parkers.

Please advise if you wish substantiation of any of the above statements or statistics.

  
Yours very truly,

Richard F. Dole

cc: Russell D. Keil, President E/O



RICHARD F. DOLE  
LAWYER

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November 6, 1993

William Courtright  
Budget Analyst's Office  
1390 Market St., Suite 1025  
San Francisco, CA 94102

Re: Nonprofit Garage Corporations - Report

Dear Mr. Courtright;

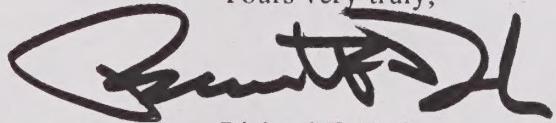
I suggest consideration be given to the following factual statements in the draft report:

- 1) Table 2 - Ellis-O'Farrell is not identified as having an obligation to contribute to the City. This is incorrect. The 85/15% formula applies.
- 2) Pg. 22 - The Controller's budget authority is noted. However, for years the nonprofit corporations have complied with every request of DPT for information and budget submittals. The report does not recognize this fact of cooperation and de facto compliance.
- 3) Pg. 23 - The current budget format was developed by DPT, not the Controller.
- 4) Pg. 27 - The table showing the actual expenses at Ellis-O'Farrell to be not consistent with the year end audited report for 1991/92 is incorrect. Both are approximately \$1,809,000. The discussion based on table 2 should be edited accordingly.
- 5) Pg. 28 - While some corporations may not have monitored operating expenses against the line item budgets on a monthly basis, Ellis-O'Farrell and Japan Center garages for years have followed this procedure.

While the limited access procedures did permit a review the report, I did not have time to study the report for factual errors beyond section 2.

I do have problems with certain conclusions in the report reflected in recommendations applying to all of the nonprofit corporations and the grounds identified in the report for reaching those conclusions. These concerns are beyond the scope of this brief response concerning factual errors and omissions. Obviously, unlimited access to the report will be necessary to present a substantive response.

Yours very truly,



Richard F. Dole

cc: Russell D. Keil, President E/O  
Robert Speer, President WAPC

